

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al., \*  
\*  
Plaintiffs, \*  
\*  
v. \* 05-CV-0329 GKF-PJC  
\*  
TYSON FOODS, INC., et al., \*  
\*  
Defendants. \*

\*\*\*\*\*  
VIDEO DEPOSITION OF STEVE STEELE  
\*\*\*\*\*

ANSWERS AND DEPOSITION OF STEVE STEELE, produced as a witness at the instance of the Defendants Cargill, Inc. and Cargill Turkey Production, LLC, taken in the above-styled and -numbered cause on the 7th day of April, 2009, A.D., beginning at 9:49 a.m., before Lisa Smith, a Certified Shorthand Reporter in and for the State of Texas, in the offices of Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC, located at 100 West Fifth Street, Suite 400, Tulsa, Oklahoma, in accordance with the Federal Rules of Civil Procedure and the agreement hereinafter set forth.

Walker Declaration Exhibit 11

STEVE STEELE

April 7, 2009

2

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STEVE STEELE

April 7, 2009

3

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STEVE STEELE

April 7, 2009

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15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

Appearances . . . . .	Page 02
Exhibit Index . . . . .	Page 05
Stipulations . . . . .	Page 07
Examination by Mr. Walker . . . . .	Page 08
Examination by Mr. Mirkes . . . . .	Page 194
Examination by Mr. Chadick. . . . .	Page 236
Examination by Ms. Weaver . . . . .	Page 240
Signature and Corrections . . . . .	Page 244
Reporter's Certificate . . . . .	Page 245

STEVE STEELE

April 7, 2009

5

E X H I B I T L I S T				
	No.	Description	Page Mrk'd	Page Ident.
1				
2				
3				
4	3	Subpoena	07	08
5	4	March 17, 2005 E-mails and January 10, 2005 Letter	43	43
6				
7	5	March 19, 2005 E-mail and Attachment	70	70
8				
9	6	Houses in Illinois River Watershed Oklahoma Chart	88	88
10	7	Blank Investigation Form	91	91
11	8	Investigation Information Sheet	107	107
12	9	April 06, 2005 E-mail	107	107
13	10	2005, 2006, 2007 and 2008 1099-Misc Forms	87	87
14				
15	12	June 17, 2005 E-mail	122	122
16				
17	13	November 21, 2005 E-mail	124	124
18				
19	15	December 1, 2005 E-mail	127	127
20				
21	17	January 20, 23 and 24, 2006 E-mails	151	151
22				
23	19	Handwritten Notes and Investigation Forms	153	153
24	21	Investigation Forms and Photographs	162	163
25	22	Investigation Forms and Photographs	179	179
	23	Investigation Forms	190	190
	24	Figure 6 - Public Land Survey	134	134
	25	Investigation Form and Photographs	209	209
	26	Investigation Forms and Photographs	212	213
	27	Investigation Form and Photographs	217	217

STEVE STEELE

April 7, 2009

6

No.	Description	Page Mrk'd	Page Ident.
28	Investigation Form and Photographs	223	223
29	Investigation Form and Photographs	224	225
30	Monte Jones File	227	227
31	John Jones File	234	234
32	Investigation Forms	237	237

REPORTER'S NOTE: Exhibit Nos. 11, 14, 16, 18 and 20 were not marked.

STEVE STEELE

April 7, 2009

7

P R O C E E D I N G S

(Exhibit No. 3 was marked.)

THE VIDEOGRAPHER: We're on the record.

Today is April 7th, 2009. This is the beginning of the videotaped deposition of Steven Steele in the State of Oklahoma, et al. versus Tyson Foods, Incorporated, et al. in the United States District Court for the Northern District of Oklahoma.

My name is Wayne Neil. I'm the videographer. Our court reporter is Lisa Smith.

Would the attorneys please introduce themselves for the record.

MR. WALKER: Todd Walker with Faegre and Benson representing the Cargill defendants. With me is Chris Dolan of Faegre and Benson and Theresa Hill of the Rhodes Hieronymus firm.

MR. MIRKES: Craig Mirkes for Peterson Farms.

MR. CHADICK: Buddy Chadick for George's Incorporated.

MS. WEAVER: Sharon Weaver and Pat Green for The State of Oklahoma.

STEVE STEELE,  
having been first duly sworn, testified as follows:

MS. WEAVER: Are we reserving objections except as to form or just following the Court rules,

STEVE STEELE

April 7, 2009

8

1 because I think the Court rules --

2 MR. WALKER: That's fine. I believe that's  
3 what we're doing.

4 MS. WEAVER: Okay.

5 MR. WALKER: Following the Court rules is  
6 generally a good idea.

7 EXAMINATION

8 BY MR. WALKER:

9 Q. Mr. Steele, I'm Todd Walker. We're taking the  
10 second deposition of the day. You and I met for the first  
11 time today and a short time ago we spent about a half an  
12 hour taking the deposition of Steele Investigations and  
13 Research, LLC and now we're moving on to your individual  
14 deposition. Okay?

15 A. Yes, sir.

16 Q. The ground rules that I covered in the 30(B)(6)  
17 deposition, the LLC, are the same for this deposition.  
18 Okay?

19 A. Yes, sir.

20 Q. I'll put in front of you what's been marked as  
21 Exhibit 3 to your deposition. And can you please identify  
22 that document.

23 A. This is a subpoena, State of Oklahoma versus Tyson  
24 Foods, et al. directed to me and this is a copy -- this was  
25 served to me at my home.



STEVE STEELE

April 7, 2009

9

1 Q. And did you notice that that subpoena asked you  
2 not only to attend here today but to bring any and all  
3 documents and electronically stored information relating to  
4 this case that you have?

5 A. Yes, sir.

6 Q. Okay. Did you bring any such documents today?

7 A. Yes, sir, I did.

8 Q. I'll take a look at that at the break. Is this a  
9 copy of this we can keep or would you like us --

10 A. Yes, sir.

11 Q. -- to make copies?

12 A. My wife said you could keep those.

13 Q. And I just took a quick look. Is that the 1099s  
14 for the work that you've done in this case, the payment  
15 that you've received from the State of Oklahoma?

16 A. Yes, through Lithochimiea, Incorporated.

17 Q. Okay. So those 1099s have been issued by  
18 Lithochimiea?

19 A. Yes, sir.

20 Q. Mr. Steele, we covered a lot of ground in your  
21 earlier -- in the 30(B)(6) deposition about your education,  
22 training and work experience and I don't see any reason to  
23 go through all of that in great detail, provided that you  
24 can tell me that your answers to the questions that I asked  
25 in the 30(B)(6) deposition about your education, training

STEVE STEELE

April 7, 2009

10

1 and work experience would be the same if I asked those  
2 questions again of you in this deposition; is that correct?

3 A. Yes, sir.

4 Q. But this is a separate record and I think for the  
5 convenience of future readers and users of the record, I'd  
6 like to ask you a few questions to just summarize some of  
7 that testimony. Okay?

8 A. Yes, sir.

9 Q. Your educational background consists of high  
10 school degree and some college-level education; correct?

11 A. Yes.

12 Q. Okay. And you have received a degree from the FBI  
13 Academy in 1990?

14 A. Yes, sir.

15 Q. And an advanced CLEET Certification from the State  
16 of Oklahoma; correct?

17 A. Yes, sir.

18 Q. And you've also gone to the DEA, federal Drug  
19 Enforcement Agency investigators school; correct?

20 A. Yes.

21 Q. And that was about in 1989?

22 A. I believe so, sir.

23 Q. You've also received as a member of the Tulsa  
24 Police Force annual inservice training through the State  
25 CLEET program; correct?

STEVE STEELE

April 7, 2009

11

1 A. Yes, sir.

2 Q. And you're a Tulsa Police Academy graduate from  
3 1975; right?

4 A. Yes, sir.

5 Q. And you have been employed as a -- you were  
6 employed as a police officer for the Tulsa Police  
7 Department for a period of 33 years after graduating from  
8 the academy; correct?

9 A. Yes, sir.

10 Q. And over the course of that 33 years, you  
11 developed specialties in homicides and crimes against  
12 persons and internal affairs; correct?

13 A. Yes, sir.

14 Q. And you are not a specialist through your work  
15 with the Tulsa Police Force in environmental  
16 investigations; correct?

17 A. No, sir.

18 Q. And you have never received any training relating  
19 to agricultural environmental work; correct?

20 A. No, sir.

21 Q. Is that a correct statement?

22 A. It's correct. I've had no agricultural training.

23 THE VIDEOGRAPHER: I'm sorry to interrupt,  
24 can we go off the record one moment?

25 (Off-the-record discussion.)

STEVE STEELE

April 7, 2009

12

1 THE VIDEOGRAPHER: You're back.

2 Q. (BY MR. WALKER) Can you please tell me generally  
3 the nature of your assignment or your work for the State of  
4 Oklahoma in this case.

5 A. Well, it has changed from the start. It kind of  
6 went through a metamorphosis of different assignments.  
7 Originally I met with the plaintiffs. They asked me to  
8 have a meeting with them and they offered me employment to  
9 ground proof photographs.

10 They had aerial photographs of the entire  
11 Illinois River Watershed. And in these photographs they  
12 are of such quality that you could see every building that  
13 looks like what a poultry building looks like. And they  
14 asked me to put together some experienced officers and  
15 detectives that could go into the Watershed and take  
16 photographs of these buildings in the order they wanted  
17 them, also get a GPS reading as close as you could to the  
18 building without leaving public access. And also they gave  
19 you a questionnaire for each building that -- or a sheet of  
20 paper that had questions that asked if it looked like it  
21 was still being operated, if it was abandoned, if it had  
22 been converted to other things. And that's how I started  
23 my association with the plaintiffs.

24 Q. And just as a general overview, you said that that  
25 assignment evolved.

STEVE STEELE

April 7, 2009

13

1 A. Yes, sir.

2 Q. And if you could tell me about, you know,  
3 generally and we can get into the details later how that  
4 evolved.

5 A. Yes, sir. The plaintiffs had an interest in  
6 ascertaining the locations where poultry litter or waste or  
7 whatever you like to call it was being spread in the  
8 Watershed. And if we could photograph and get GPS readings  
9 on those locations.

10 Q. And the request for that kind of work came later  
11 in time from the initial request?

12 A. But pretty quickly afterwards, because we -- they  
13 could not -- the aerial photograph, they had technicians  
14 find the lats, longs, the GPS readings for each building  
15 and it was quite time consuming for them to get the  
16 material to us much. They have GIS people. Lithochimiea  
17 worked on this almost full-time. So we couldn't -- in the  
18 beginning had a little bit of difficulty coordinating  
19 because all of my people had to take vacation to do any  
20 work in this lawsuit. So you have to put in a request for  
21 vacation and then you hope that the information that they  
22 want you to go out and ascertain is available in the  
23 photographs. And so in some instances we -- we couldn't  
24 make that possible and they would want us to go out and  
25 look for places where poultry litter had been spread.

STEVE STEELE

April 7, 2009

14

1 Q. Other than the ground proofing assignment and then  
2 the poultry litter application assignment, were there any  
3 other projects involved in this case?

4 A. Yes. I've done research on who owns what  
5 buildings. I've gone to the courthouses in Stillwell,  
6 Oklahoma, Fayetteville, Arkansas doing research. After I  
7 retired, I served some subpoenas in the Watershed to, I  
8 think, experts that are defense witnesses. I did some  
9 computer searches or had computer searches done on  
10 individuals and items that attorneys that represent the  
11 plaintiff wanted me to do.

12 Q. Did you perform any other work in the context of  
13 this lawsuit?

14 A. I may have. I just can't recall at this moment.

15 Q. Well, we may -- we'll ask more specific questions  
16 later on.

17 In the course of performing your work, did  
18 you generate documentation?

19 A. Yes, sir.

20 Q. Did you generate computer files?

21 A. No, sir.

22 Q. Did you write any e-mails?

23 A. Yes, sir.

24 Q. The subpoena asked that you produce all  
25 information in your possession with regard to your work in

STEVE STEELE

April 7, 2009

15

1 this case and you brought just a couple 1099s and nothing  
2 else?

3 A. Yes, sir.

4 Q. Now, can you explain for me why it is you didn't  
5 bring any paperwork or e-mail files or any of that  
6 material?

7 A. I don't -- I don't have any. Most of the -- any  
8 type of e-mail files had something to do with can you come  
9 see us, little questions like that. Usually I got those  
10 e-mails in my office when I worked for the Tulsa Police  
11 Department. Since I've left the Tulsa Police Department,  
12 I've had minimal contact in this case.

13 Q. So the e-mails would have been left behind at the  
14 Tulsa Police Department?

15 A. No. They would have been deleted and dumped.

16 Q. But would you have done that?

17 A. Yes, sir.

18 Q. Okay. Did you do that as a matter of practice for  
19 all the work that you did for the City -- at the Tulsa  
20 Police Department?

21 A. Yes, sir, for all work.

22 Q. What was your standard practice as far as when you  
23 would retain e-mail information versus when you would  
24 delete e-mail information?

25 A. If I needed to retain something that had something

STEVE STEELE

April 7, 2009

16

1 to do with the Police Department, I would copy it and make  
2 it into a file and my secretary would make files out of it.  
3 These things with the poultry lawsuits, these were personal  
4 e-mails and I deleted them.

5 Q. Were you authorized to use the City of Tulsa  
6 computer system for personal use?

7 A. Yes, sir.

8 Q. And who authorized that?

9 A. The Chief, Ron Palmer.

10 Q. Did he authorize --

11 A. And before him David Bean.

12 Q. Did they specifically authorize you to use the  
13 Tulsa -- the City of Tulsa computer system for your  
14 individual work on this case?

15 A. I could not put work product onto this computer,  
16 but I was free to use the e-mail system.

17 Q. And you said that if you wanted to keep something  
18 you would print it out and keep a paper copy; is that  
19 correct?

20 A. Yes, sir.

21 Q. Did you print out and keep paper copies of any  
22 information, e-mails, other computer files that you may  
23 have maintained in this case?

24 A. No, sir.

25 Q. And when did you delete the information that you



STEVE STEELE

April 7, 2009

17

1 had electronically in this case at the City of Tulsa?

2 A. Most normally on a daily basis. If I got  
3 something that day, I would delete it that day.

4 Q. And when did you retire from the City of Tulsa  
5 Police Force?

6 A. April 1st of last year.

7 Q. And that's April 1st, 2009 -- or 2008, rather?

8 A. 2008.

9 Q. We've talked about the electronic files that --  
10 that you once had. What about the paper records that you  
11 generated during the course of your work, where is that  
12 information?

13 A. The paper records from any of my employment was  
14 given directly to the person who requested me to do the  
15 task. Most -- most of the time that would be Dr. Bert  
16 Fisher. Some were to Louis Bullock, some were to David  
17 Page. Some things went to Randy Miller. Some things went  
18 to Rick Garren.

19 Q. What kind of work did you do at the request of  
20 Mr. Bullock?

21 A. Mr. Bullock at one time wanted me to go out and  
22 interview -- and I can't remember the number, I'd say  
23 probably more than five, less than seven or eight --  
24 individuals that had developed some diseases. I don't know  
25 how he found their names, but I made contact, traveled to

STEVE STEELE

April 7, 2009

18

1 different parts of Eastern Oklahoma and interviewed the  
2 folks on video -- or not videotape, just regular cassette  
3 tape, gave the cassettes to the law firm.

4 Q. Why were you investigating people who may have had  
5 diseases in Eastern Oklahoma?

6 A. You would have to ask Louis Bullock that question,  
7 but I think at that point, and this has been about three  
8 years ago, that he thought there may be a correlation of  
9 where they lived to what their disease was.

10 Q. Did you ever hear any information about whether  
11 there was any correlation between where they lived and what  
12 their diseases were?

13 A. No, sir.

14 Q. Did you ever come to any conclusions yourself  
15 about whether there was any correlation?

16 A. No, sir. And the questions I had were -- they  
17 were written out by the attorney for me to ask in that  
18 order.

19 Q. Questions -- did Mr. Bullock write those  
20 questions, if you know?

21 A. Mr. Bullock or Mr. Blakemore. I'm not sure which  
22 one.

23 Q. Did Mr. Blakemore ask you to do any work apart  
24 from what Mr. Bullock was asking you in that particular  
25 instance?

STEVE STEELE

April 7, 2009

19

1 A. Not that I can recall.

2 Q. Did Mr. Bullock ask you to do any other work?

3 A. He's asked me to go to the Watershed and with  
4 my -- I usually had the same associate with me every time,  
5 Gary Stansill, and just drive around the Watershed and see  
6 what we saw, as far as the movement of poultry litter and  
7 -- or if we saw litter stacked, document it. That was --  
8 the last time that happened was right after -- about the  
9 time I retired.

10 Q. So you were doing some of this work in 2008?

11 A. Yeah, very little. We didn't do any of the ground  
12 proofing or the trying to locate where they were spreading  
13 litter in 2008.

14 Q. When did you first begin doing your investigatory  
15 work on this case?

16 A. In 2005, I started -- I think -- I got invited to  
17 lunch with Mr. Garren and Dr. Fisher towards the end of  
18 February, first part of March. That's when they made their  
19 request if we could do this. And we talked about monetary  
20 issues and the difficulty it is to get large groups of  
21 people to go to the Watershed, take vacation at the same  
22 time. That's when I really first started working for them.

23 Q. Did you generate paperwork and documentation in  
24 2005 relating to this case?

25 A. Oh, yes, sir.

STEVE STEELE

April 7, 2009

20

1 Q. Quite a lot?

2 A. Oh, yes, sir.

3 Q. How about in 2006?

4 A. Yes, sir.

5 Q. How about in 2007?

6 A. Yes, sir.

7 Q. And how about in 2008?

8 A. Very little.

9 Q. Some?

10 A. Yes, sir.

11 Q. And all of that information that you generated in  
12 paper, you provided to the requesting person?

13 A. The original copies went to the -- to the person  
14 who requested it.

15 Q. And you didn't keep copies of any of that  
16 information?

17 A. No, sir.

18 Q. Did you discard any of that information at any  
19 point along the way?

20 A. No, not that I can recall.

21 And I might say something wasn't copied in  
22 error, it wasn't recopied and the original before we turned  
23 them in was tossed.

24 Q. But there was no effort on your part to get rid of  
25 any of this information at any time?

STEVE STEELE

April 7, 2009

21

1 A. No. No.

2 Q. You supervised a number of other investigators in  
3 this work; correct?

4 A. Yes.

5 Q. Did they also generate paperwork?

6 A. Yes, sir.

7 Q. I didn't ask you, did you generate any paperwork  
8 for this case in 2009?

9 A. I don't think I have. I've done some work in  
10 2009, but I can't recall if I've done any of that.

11 Q. What work have you done in 2009 on this case?

12 A. I tried to locate expert witnesses for the  
13 plaintiff. I was asked by Dr. Fisher to go to the  
14 Watershed north of Tahlequah and try to ascertain who may  
15 have spread litter in the tributary called Tahlequah Creek.  
16 And I talked to Ed Fite at Scenic Rivers and he provided  
17 the information. So yes, I did do some written work in '09  
18 because I made that report and turned it in.

19 Q. What was your understanding of why you were trying  
20 to find who may have spread litter in the Tahlequah area?

21 A. As it was explained to me, that there were some  
22 stations in the creek that tried to pick up certain  
23 chemicals and the chemicals that Dr. Fisher associated with  
24 poultry litter were found at that location, but there was  
25 no documentation that anyone had filled out any sort of

STEVE STEELE

April 7, 2009

22

1 report to the State that they had spread that. And that's  
2 what they were looking for, to see if somebody had spread  
3 that up there.

4 Q. Did you -- did you find anybody spreading in that  
5 area?

6 A. I never found anybody. Personally spreading, I  
7 had found a person that told me, yes, on this property I  
8 know this guy has spread litter and here's the amount and  
9 when.

10 Q. And did you identify whatever you learned in  
11 written reports that you provided to the State?

12 A. Yes, sir.

13 Q. Actually, did those reports go to Mr. Fisher?

14 A. Yes, sir.

15 Q. What became of the paperwork that the  
16 investigators you supervised developed?

17 A. The paperwork -- and I probably need to go into a  
18 little bit of background on this, on how we were divided.

19 Q. Okay.

20 A. We would be in two-person crews, in individual  
21 automobiles or pickup trucks, and they were provided the  
22 maps and the same questionnaires I described earlier. And  
23 at the end of the day, we would meet some place, either in  
24 Locust Grove or Tulsa, and they would give me their work  
25 product and I would have my work product, mine and Gary

STEVE STEELE

April 7, 2009

23

1 Stansill's. And the most -- or the biggest group we'd ever  
2 had on one day would be four cars and eight individuals. I  
3 took their finished product to -- called Bert Fisher and I  
4 either would go to his home and give it to him or he would  
5 come to my home and take it.

6 Q. Is it fair to say that it was a requirement of  
7 yours that the investigators give you their paperwork for  
8 the day so you could pass it on?

9 A. Yes, sir.

10 Q. Is it your understanding, then, that they should  
11 not have retained any paperwork?

12 A. If they have, I don't know about it.

13 Q. What work did you do for Mr. Page?

14 A. Mr. Page never made a request directly to me. It  
15 always came through Dr. Fisher. Sometimes he would say  
16 that David Page wants you to do so and so or it would just  
17 be can you do so and so.

18 Q. What was your understanding of the things that  
19 Mr. Page was asking you to do through Mr. Fisher?

20 A. I can't -- I can't really segregate that out at  
21 this point. I know that I did things that they said well,  
22 that was for Page.

23 Q. How about Mr. Miller, what work did you do at  
24 Mr. Miller's request?

25 A. Mr. Miller was interested in doing background

STEVE STEELE

April 7, 2009

24

1 checks on expert witnesses. And Mr. Miller left this case  
2 a couple years ago, so nothing since then.

3 Q. Background checks on the State's expert witnesses  
4 or on the defendants' experts?

5 A. No. The defendants' expert witnesses.

6 Q. What was your understanding of the purpose of  
7 doing background checks on defendants' expert witnesses?

8 A. I believe in deposition he would ask questions  
9 from what was found.

10 Q. What kind of information were you looking for?

11 A. Anything. Anytime that their name appeared in  
12 print, we could do computer searches to try to put these  
13 things together and make executive copies or, you know,  
14 cut-down versions for -- some things are very large. We  
15 edited those down and gave them to Mr. Miller.

16 Q. I take it that the people, maybe generally or  
17 maybe it's just me, consider when you're looking and doing  
18 background check work, you're looking for perhaps among  
19 other things, unsavory behavior that the people might have  
20 engaged in in the past. Is that what you were doing?

21 A. If it was apparent, yes.

22 Q. Did you find anything like that relating to any of  
23 the defendants' experts?

24 A. I -- no.

25 Q. Did Mr. Miller ask you to do anything else?



STEVE STEELE

April 7, 2009

25

1 A. Not that I recall. But if it comes up, I will  
2 remember.

3 Q. Okay. How about Mr. Garren, what did he ask you  
4 to do?

5 A. He was the main person on the ground proofing and  
6 finding the places where poultry litter had been spread.  
7 And they were interested, not only where it was spread, but  
8 where it had come from to the spread point.

9 Q. What was your understanding of why they were  
10 trying to identify places that litter had been spread?

11 A. My understanding was they were -- would use a  
12 testing company to test adjoining soil and creeks  
13 downstream from there, but that's all I know about it.

14 Q. Did -- did -- in the course of your work, did you  
15 conduct any testing of any environmental media whatsoever?

16 A. No, sir.

17 Q. Did any of the investigators working under you  
18 conduct any testing of any environmental media?

19 A. No, sir.

20 Q. What was your understanding of why Mr. Garren  
21 wanted you to find where the litter had come from?

22 A. I think -- I'll answer that, they were interested  
23 in findings those locations so they could send scientific  
24 people close by to take samples.

25 Q. And I was distinguishing where the litter was land

STEVE STEELE

April 7, 2009

26

1 applied, which was my first line of questions.

2 A. Yes.

3 Q. But what I'm asking now is the second thing that  
4 you said you wanted -- that you were asked to do which is  
5 to find out where the litter came from.

6 A. Right. I'm sorry. I misunderstood your question.

7 Q. Okay. So what was your understanding of why you  
8 were looking for where the litter came from?

9 A. My understanding was that there was a possibility,  
10 and I don't know this for a fact because I'm not a  
11 scientist, that there's certain things in certain litter  
12 that they would be looking for. And if these chickens were  
13 from this company, they wanted to see if it was also --  
14 they found another spot, if there was some kind of match up  
15 between the two.

16 Q. Did you ever hear that any company-specific link  
17 was made through the course of the scientific work?

18 A. No, sir.

19 Q. What work did Mr. Fisher ask you to do?

20 A. Basically the same things. He was the keeper of  
21 the records and his company provided those photographs, the  
22 aerial photographs. They provided the equipment, digital  
23 cameras, video equipment, GPS's, plus they produced the  
24 questionnaires that we took with us. And we were to turn  
25 our hours into Lithochimiea, which was Mr. Fisher's

STEVE STEELE

April 7, 2009

27

1 company, and he would bill other parts of the plaintiffs  
2 and that's where our pay came from.

3 Q. Is it fair to say that the leaders of the  
4 investigatory program on the State side was Mr. Fisher and  
5 Mr. Garren?

6 MS. WEAVER: Object to form.

7 Q. (BY MR. WALKER) You can go ahead and answer the  
8 question.

9 A. I -- I -- in my situation, yes.

10 Q. I'll ask it this way: Who did you work the most  
11 with?

12 A. Dr. Fisher.

13 Q. And after Dr. Fisher, who did you work most with  
14 with the State?

15 A. It was pretty even between the rest of them. Of  
16 the bulk, 75 percent would be Dr. Fisher.

17 Q. Did you do anything to prepare for your deposition  
18 today?

19 A. Yes, sir.

20 Q. What did you do?

21 A. I had a meeting with Rick Garren.

22 Q. Just one meeting?

23 A. I attended two, because I had -- first we had  
24 to -- I had to coordinate all of the witnesses that work  
25 for the police department and try to schedule them into two

STEVE STEELE

April 7, 2009

28

1 meetings. Either -- last on -- April 1st was the last one  
2 and two days before that was the first one. And we still  
3 couldn't get everybody there.

4 Q. Okay. So these were meetings that Mr. Garren was  
5 working with you to arrange with all the investigators to  
6 prepare for the depositions that are taking place this  
7 week?

8 A. Right. And these were very brief meetings, lasted  
9 about 20 minutes.

10 Q. And -- so to accommodate the schedules of the  
11 various investigators, there were two meetings held?

12 A. Yes, sir.

13 Q. And they -- were they held then with groups of  
14 investigators or was each investigator met one at a time?

15 A. Both. Ones that could not make either one of the  
16 meetings, tried to get free time to go by and visit with  
17 Mr. Garren or talk to him on the telephone.

18 Q. When was the first day of meetings?

19 A. It was the Monday before the 1st of April.

20 Q. March 30th perhaps?

21 A. I believe.

22 Q. Did you attend that day of meetings?

23 A. Yes, sir.

24 Q. Did you attend all the meetings that were held  
25 with the investigators that day?

STEVE STEELE

April 7, 2009

29

1           A. That day we only had one meeting. I don't think  
2 he met with anybody else on that first day individually.

3           Q. Did he just meet with you?

4           A. He met with me, Major Rod Hummel, Captain Tim  
5 Jones, Sergeant Gary Stansill and there might have been  
6 somebody else. I can't recall.

7           Q. And that was a group meeting with -- with the four  
8 of you or perhaps five?

9           A. Yes, sir.

10          Q. With Mr. Garren?

11          A. Yes, sir.

12          Q. Anybody else?

13          A. He was present. I believe he was for part of it.

14          Q. How long did the meeting last?

15          A. 20 to 30 minutes.

16          Q. And that was the only meeting you were involved in  
17 that day --

18          A. I went to the one on the 1st with the second  
19 group, too, that I coordinated the schedule for them to  
20 attend.

21          Q. All right. And just let me make sure I finish my  
22 question here. That was only meeting you attended that day  
23 on March 30th?

24          A. Yes, sir. I apologize. Yes, sir.

25          Q. Okay. And I believe you said that your

STEVE STEELE

April 7, 2009

30

1 understanding is there were no additional meetings that day  
2 with any other investigators?

3 A. I do not believe so.

4 Q. There were no other meetings, to your knowledge?

5 A. To my knowledge, on Monday before April 1st,  
6 except for the meeting I attended, I don't know of any  
7 others.

8 Q. Okay. What was discussed in the meeting?

9 A. What to expect in a deposition. Most everybody  
10 that was there had testified at length in State Court on  
11 various and sundry things, but they just told us what the  
12 process was of giving a deposition and basically that was  
13 it.

14 Q. Okay. What facts, if any, about this case were  
15 discussed that day?

16 A. The only fact that we discussed that I can think  
17 of was that we had no agricultural training.

18 Q. Who brought that issue up?

19 A. Mr. Garren.

20 Q. And what did he say about it?

21 A. Just exactly what I said. We just testified to  
22 what we did, that we're not experts in agriculture or  
23 science, just parts of the process that we were associated  
24 with.

25 Q. Okay. Why is it that Mr. Garren had to tell you

STEVE STEELE

April 7, 2009

31

1 that you weren't experts in agriculture? Wouldn't you know  
2 that yourself?

3 A. I knew that.

4 MS. WEAVER: Object to form. Go ahead.

5 Q. (BY MR. WALKER) You knew that; right?

6 A. Yes.

7 Q. And -- so what else was he telling you? Why was  
8 he telling you that if you already knew?

9 A. I don't know. I mean, it's -- we were told that  
10 at the very beginning when we started off. We were just  
11 out there looking for things to observe and take  
12 photographs of, not form opinions.

13 Q. Did he talk about the distinction between being an  
14 expert witness in a case and a fact witness in a case?

15 A. No, sir.

16 Q. Are you purporting to be an expert of any sort in  
17 this case?

18 A. No, sir.

19 Q. What else did Mr. Garren discuss in that meeting  
20 on March 30th?

21 A. He told us to cash the checks.

22 Q. The witness fee checks that you were provided as a  
23 part --

24 A. Yes, sir.

25 Q. -- of your subpoena?

STEVE STEELE

April 7, 2009

32

1 A. Yes, sir.

2 Q. And I'll just remind you for the convenience of  
3 the court reporter and a clean record to wait until I  
4 finish asking me question.

5 A. I'm sorry again.

6 Q. Wait before you answer.

7 So there was a second meeting on April 1st?

8 A. Yes, sir.

9 Q. Who was at that meeting?

10 A. Mr. Garren, myself, Sergeant Mike Huff, Sergeant  
11 Tim Bracken, Investigator Mike Nance and I can't remember  
12 if there was anybody else. Oh, Danny Lynchard.

13 Q. And how long did the April 1st meeting last?

14 A. Approximately 20 to 30 minutes.

15 Q. And that was a group meeting?

16 A. Yes, sir.

17 Q. I think you indicated earlier that there were some  
18 individual meetings as well?

19 A. Yes. Sergeant Shane Tuell, Officer Kirk Gardner,  
20 and Officer Darren Froeming. Mike could not attend either  
21 meeting and they made personal arrangements with Mr. Garren  
22 to visit with him.

23 Q. Did you attend the meetings for Mr. Tuell?

24 A. No.

25 Q. Did you attend the meeting for Mr. Gardner?



STEVE STEELE

April 7, 2009

33

1 A. No, sir.

2 Q. Did attend the meeting for Mr. Froeming?

3 A. No, sir.

4 Q. Is it your understanding that those people met  
5 individually with Mr. Garren as opposed to in their own  
6 group?

7 A. Yes, sir.

8 Q. In the meeting you attended on April 1st of 2009;  
9 correct?

10 A. Yes, sir.

11 Q. Just last week, right?

12 A. Yes, sir.

13 Q. What was discussed in that meeting?

14 A. Basically the same thing that was -- I've told you  
15 about that was discussed at the first meeting.

16 Q. Did Mr. Garren in either of these meetings express  
17 any concerns about any particular areas of testimony in  
18 this case?

19 A. No, sir.

20 Q. Did you talk with Mr. Tuell, Mr. Gardner or  
21 Mr. Froeming -- Gardner or Froeming after they had their  
22 meeting with Mr. Garren?

23 A. I've talked to Shane Tuell, but not about his  
24 meeting. He's my son-in-law. I talk to him almost every  
25 day.

STEVE STEELE

April 7, 2009

34

1 Q. Okay. Fair enough. So is it fair to say you  
2 don't -- well, did you ask Mr. Garren about what was  
3 discussed in the subsequent meetings with Tuell, Gardner  
4 and Froeming?

5 A. No, sir.

6 Q. So you don't know what was discussed in that  
7 meeting?

8 A. No, sir. I've not spoken to Mr. Garren since.

9 Q. Did you review any documents to prepare for your  
10 deposition?

11 A. No, sir.

12 Q. Were there any documents that were shown to  
13 anybody in either the March 30th or April 1st meeting?

14 A. No, sir.

15 Q. You testified earlier that you started work on  
16 this project and were first contacted in late February or  
17 early March of 2005; right?

18 A. Yes, sir.

19 Q. Who first contacted you?

20 A. Dr. Fisher.

21 Q. Before he contacted you, did you know who  
22 Dr. Fisher was?

23 A. Yes.

24 Q. How do you know Dr. Fisher?

25 A. Dr. Fisher's daughters went to school with one of

STEVE STEELE

April 7, 2009

35

1 my children.

2 Q. When did you first meet Dr. Fisher?

3 A. 2001, 2002, something like that.

4 Q. Do you recall the first time that you and  
5 Dr. Fisher talked about this case?

6 A. Yes.

7 Q. When was that?

8 A. At the same time period, March or February of '05.

9 Q. So the first time Dr. Fisher talked to you about  
10 this case was when he was talking about potentially you  
11 getting involved in this case?

12 A. Yes.

13 Q. He never discussed the case prior to that in the  
14 context of your social relationship?

15 A. Our social relationship was -- we were not close  
16 friends. We just knew each other. My wife and his wife  
17 and he and I have had dinner maybe twice in five years.

18 Q. You didn't know he was working on this case until  
19 he approached you about working?

20 A. No, sir. I thought he was a professor at TU.

21 Q. In that first meeting when Dr. Fisher approached  
22 you about this case, what did he -- what did he tell you?  
23 What was -- what did you discuss?

24 A. He told me that the State lawsuit hadn't been  
25 filed yet at that time. He told me that there was a

STEVE STEELE

April 7, 2009

36

1 possibility of a lawsuit being filed and that they needed  
2 to locate the poultry facilities by lat and long and get  
3 photographs and do an inventory of the poultry buildings in  
4 the Illinois Watershed and wanted me to put together crews  
5 to go back, take those pictures and get GPS coordinates.  
6 And told me that basically this would last about a month.

7 Q. It turned out to be substantially more work than  
8 that; correct?

9 A. Yes, sir.

10 Q. Do you -- do you have any appreciation why it is  
11 that you wound up working for four years or so on a project  
12 that was supposed to last about a month?

13 A. Well, it's like I said before in earlier  
14 testimony, that these processes and questions morphed into  
15 something else and they'd asked us to do something else.

16 Q. At the time that he approached you about doing the  
17 work, what was your response?

18 A. I was interested. It sounded like interesting  
19 work, but I knew that there was going to be some  
20 difficulties finding enough people to do what they wanted  
21 to do in a month. We did our best, but I think we would  
22 have fulfilled that if we would have gotten the information  
23 from their GIS Department quicker. They had had a tough  
24 time making the maps or I say maps, aerial photographs and  
25 their technicians would find off of the maps that lat and

STEVE STEELE

April 7, 2009

37

1       longs. And we already had a list of lat and longs of where  
2       each poultry house was. So if you couldn't find it, and  
3       there are some nooks and crannies in Arkansas and Oklahoma  
4       where you don't know where you are, so you feed that  
5       information into your GPS and it would tell you basically  
6       how to find what you're looking for.

7               Q. You mentioned that your first contact with  
8       Mr. Fisher before getting involved in this work was before  
9       the lawsuit was filed; right?

10              A. Yes, sir.

11              Q. Did anybody associated with the State of Oklahoma  
12       discuss with you or consult with you about whether to file  
13       the lawsuit?

14                      MS. WEAVER: Object to form.

15              Q. (BY MR. WALKER) Did you offer any advice to the  
16       State of Oklahoma in that regard?

17              A. No, sir.

18              Q. As a consequence of your discussions with  
19       Dr. Fisher in February and March of 2005, did you agree to  
20       do the work that he was asking?

21              A. Yes. But that was not -- that one meeting was not  
22       the final say of that. Another meeting was scheduled with  
23       Dr. Fisher, myself and Dr. Garren. We talked about it more  
24       in detail.

25              Q. When did that meeting take place with Dr. Fisher

STEVE STEELE

April 7, 2009

38

1 and Mr. Garren?

2 A. Probably less than a week or ten days after the  
3 original meeting with Dr. Fisher.

4 Q. What was discussed in that meeting?

5 A. At that time Mr. Garren thought that each vehicle  
6 should have three people. This is what he wanted done,  
7 photographs taken, writing done, one driver, one  
8 transcriber, one photographer. And I told him no. I  
9 thought we could do it with two people per vehicle. I  
10 talked about how much they're willing to pay and mileage  
11 because we used our own automobiles or pickup trucks. Just  
12 the nuts and bolts of the employment issues.

13 Q. Did you enter into a written agreement with the  
14 State or any of its representatives or Lithochimiea  
15 regarding your work in this case?

16 A. Yes, sir.

17 Q. Do you have a contract?

18 A. No, sir.

19 Q. No?

20 A. I made an agreement. Rick Garren holds that  
21 paperwork. But we were -- what we were doing and who we  
22 were working for and that we were not to tell people what  
23 we were doing.

24 Q. You didn't keep a copy of that agreement?

25 A. I don't have it, so no.

STEVE STEELE

April 7, 2009

39

1 Q. Is it something you signed?

2 A. Yes, sir.

3 Q. Did Mr. Garren say you weren't allowed to keep a  
4 copy of that agreement?

5 A. No.

6 MS. WEAVER: Object to form.

7 Q. (BY MR. WALKER) What was your understanding of why  
8 this work was to be confidential?

9 A. In the beginning of -- there wasn't a lawsuit  
10 filed, so that's my belief. And the other was not to -- we  
11 were instructed not to make contact with people in the  
12 poultry industry, try to make our jobs easier where we  
13 could take photographs without people being afraid, you  
14 know, make it look like we're sneaking up on somebody. We  
15 were just going out and making observations and take  
16 photographs. We are not interested in individuals working  
17 in these positions.

18 Q. During the course of the work that you performed  
19 relating to this case from 2005 through the present, did  
20 you ever talk with any of the poultry growers, contract  
21 growers?

22 A. Not in the Watershed, no.

23 Q. Did you ever talk with any representative or  
24 employee of one of the defendants in this case as part of  
25 your work?

STEVE STEELE

April 7, 2009

40

1 A. Only when I served some subpoenas.

2 Q. And that being the experts that you might have run  
3 into?

4 A. They were former executives with -- I don't know  
5 which company now.

6 Q. Did you interview them about any facts of this  
7 case?

8 A. Oh, no, sir.

9 Q. Just talked with them in the course of serving the  
10 subpoena?

11 A. Right.

12 Q. How many poultry growers did you talk with outside  
13 of the Illinois River Watershed in the course of your work?

14 A. One.

15 Q. Who was it?

16 A. Mr. Barnes.

17 Q. Do you know Mr. Barnes' first name?

18 A. No, sir.

19 Q. Do you know if he has a contract with any  
20 defendant in this case?

21 A. I believe he does.

22 Q. Which defendant?

23 A. It used to be Peterson. I don't know who it is  
24 now.

25 Q. What was the purpose that you interviewed Mr.



STEVE STEELE

April 7, 2009

41

1 Barnes?

2 A. I did not interview Mr. Barnes. I accompanied  
3 Mr. Fisher and -- Mr. Barnes' attorney, I think, is Charles  
4 Shipley, and we went to his farm in Jay, and we got to meet  
5 him and asked some rudimentary questions. I was not the  
6 person asking the questions.

7 Q. Did somebody -- did somebody interview him?

8 A. I can't remember if Randy Miller was with us as  
9 well. I'm thinking he was, but I'm not 100 percent sure.  
10 But asked Mr. Barnes some questions about chickens and  
11 poultry and poultry waste. Mr. Barnes lives in the Euchl  
12 Watershed where they don't spread litter.

13 Q. What was your understanding of why this group of  
14 people went to Mr. Barnes' property?

15 A. I think they were just on an information,  
16 fact-finding trip.

17 Q. Did you generate any reports or documentation  
18 relating to your visit to Mr. Barnes' property that day?

19 A. No, sir. That was not the only place we went that  
20 day. We went to several place on the Watershed.

21 Q. But that's the only grower that you've talked to  
22 in relation to your work in this case?

23 A. Ever?

24 Q. Did you ever attempt to talk with or interview any  
25 grower in relation to your work in this case?

STEVE STEELE

April 7, 2009

42

1 A. No, sir.

2 MS. WEAVER: Object to form.

3 Q. (BY MR. WALKER) And you were specifically  
4 instructed by the State not to gather facts from any  
5 growers?

6 A. We were told not to make contact with growers.

7 Q. Which necessarily meant you couldn't gather any  
8 facts from the growers themselves; correct?

9 A. True.

10 Q. Did any of the investigators that you supervised  
11 have any direct contact, conversations with any growers in  
12 the IRW as part of this work?

13 A. I only know of one for sure.

14 Q. Who is that?

15 A. My son-in-law, Shane Tuell, and whoever he was  
16 with one day were taking pictures of -- of a poultry  
17 operation. And the owner of the property drove up on them  
18 and asked them what they were doing.

19 Q. And what -- what happened that day?

20 A. He said -- well, my son-in-law reported to me that  
21 they told the individual, who I believe was a grower, that  
22 we were just documenting and taking photographs. And they  
23 were on a public thoroughfare and the gentleman said okay,  
24 but don't you come onto my property and that was the end of  
25 the conversation.

STEVE STEELE

April 7, 2009

43

1 Q. Do you know which grower that was?

2 A. No. I know where it was, but I don't know who it  
3 is.

4 Q. Do you know what town, what area?

5 A. It was in the southern part on the Arkansas side.  
6 I'd have to look at a map and I could tell where you it was  
7 close to.

8 Q. Okay.

9 (Exhibit No. 4 was marked.)

10 The court reporter has marked as Exhibit 4 to  
11 your deposition an e-mail. Can you identify that document?

12 A. I believe this is one that I sent to Mr. Garren  
13 and Dr. Fisher early on when we tried to put a crew  
14 together to go do the projects that they wanted us to.

15 Q. And this is dated March 17th, 2005; correct?

16 A. Yes, sir.

17 Q. And you believe that to be about the time you  
18 would have written this kind of e-mail?

19 A. Yes, sir, I believe so.

20 Q. And is it fair to characterize the e-mail as a  
21 communication regarding the beginning of this work and the  
22 terms under which you do the work and what some of the  
23 scope of work would be; correct?

24 A. Yes, sir.

25 Q. This e-mail indicates that you were going to use

STEVE STEELE

April 7, 2009

44

1 four two-person teams; right?

2 A. Yes, sir.

3 Q. Is that what you -- how you began the project?

4 A. Yes, sir. We tried to do that, but we couldn't  
5 always get four two-person teams.

6 Q. Did that require that you bring in additional  
7 people of given schedules to work on the investigation  
8 work?

9 A. We had brought in more people. The main  
10 individuals that did the most work were myself and Rod  
11 Hummel, Gary Stansill, Shane Tuell. And for instance, if  
12 Shane had a normal partner which would be Tim Bracken or  
13 someone and he was on vacation or out of town or tied up  
14 with a court situation, he would find somebody else to  
15 accompany him.

16 Q. And -- and you just went pretty quickly here and I  
17 didn't catch all the names. You were one of the main  
18 people; correct?

19 A. Correct.

20 Q. Mr. Stansill. Gerald Hummel, which he's called  
21 Rod?

22 A. Yes. It's Gerard.

23 Q. Gerard. I'm sorry. Shane Tuell who's your  
24 son-in-law?

25 A. Yes.

STEVE STEELE

April 7, 2009

45

1 Q. Was there anybody who was kind of primary at the  
2 beginning?

3 A. Myself, Hummel, Tuell. What was the other one I  
4 said?

5 Q. Stansill?

6 A. Huff and Nance worked together some in the  
7 beginning as I recall.

8 Q. I count six people then. Did you start off with  
9 three teams?

10 A. Myself and Stansill would be one.

11 Q. Uh-huh.

12 A. Hummel and Liz Weatherly was another.

13 Q. Okay.

14 A. Shane Tuell and Tim Bracken or Froeming would be  
15 another. And Huff and Nance would be one.

16 Q. Did Rachel Hummel also do investigatory work on  
17 this project?

18 A. She did background work for us. She is the  
19 daughter of Rod Hummel or Gerard Hummel and lives in  
20 Arkansas. And if we needed an errand done, for instance,  
21 going to the court house in maybe Bentonville, things like  
22 that or computer searches, she would assist us in that.

23 Q. I take it she's not a police officer or former  
24 police officer?

25 A. Oh, no. She was a -- at the time she was a grad

STEVE STEELE

April 7, 2009

46

1 student at the University of Arkansas.

2 Q. The other people that you mentioned, Mr. Stansill,  
3 Rod Hummel, Shane Tuell, Mr. Bracken, Mr. Froeming,  
4 Mr. Nance and Mr. Huff, are they all police officers?

5 A. Yes.

6 Q. Are they all currently police officers?

7 A. Yes.

8 Q. All of the City of Tulsa?

9 A. Yes.

10 Q. I think I can gather from your earlier testimony  
11 about your prep meetings, none of those people are -- have  
12 expertise in environmental agricultural investigations;  
13 correct?

14 A. None that I know of.

15 Q. Did Mr. Jack Walton do any work on this case?

16 A. Yes. He was a substitute sometimes for Stansill  
17 or Weatherly. He was a sergeant on the police department  
18 in charge of domestic crimes.

19 Q. How about Mr. Tim Jones, did he do any work on  
20 your project?

21 A. He was a substitute and accompanied Hummel. He's  
22 a captain on the police department in charge of crimes  
23 against persons.

24 Q. How about Mr. Tim Lynchard.

25 A. That's Danny Lynchard.

STEVE STEELE

April 7, 2009

47

1 Q. I'm sorry. My notes are incorrect. Danny  
2 Lynchard, did he work on this case?

3 A. Yes, sir. L-Y-N-C-H-A-R-D.

4 Q. What did he do?

5 A. He was our pilot.

6 Q. Is he with the Tulsa Police Force?

7 A. He's the chaplain for the Tulsa Police Department.

8 Q. Does he have any responsibilities, traditional  
9 police responsibilities?

10 A. He's held a commission for another location for  
11 another city, but he doesn't -- not to my knowledge. He's  
12 never held a police commission inside the city of Tulsa.  
13 He is employed by the City of Tulsa.

14 Q. How about Mr. Kirk Gardner?

15 A. Kirk Gardner worked probably six hours on this  
16 project as a substitute with Shane Tuell on one occasion.

17 Q. How about Jim Sharp?

18 A. Jim Sharp is not a police officer and he did not  
19 work under my supervision.

20 Q. Do you know if he did any work on this project?

21 A. I think he did.

22 Q. Do you know -- what kind of work was Mr. Sharp  
23 doing?

24 A. I'm not exactly sure.

25 Q. Have you ever met Mr. Sharp?

STEVE STEELE

April 7, 2009

48

1 A. Yes.

2 Q. Do you know what he does for a living when he's  
3 not investigating poultry litter?

4 A. He's a truck driver and a cab driver or -- I won't  
5 say cab driver, shuttle bus driver.

6 THE VIDEOGRAPHER: I'm sorry. We're gonna  
7 need to change the tapes.

8 MR. WALKER: Okay.

9 (Break was taken from 10:48 a.m. to 11:04 a.m.)

10 THE VIDEOGRAPHER: Okay. You're back.

11 Q. (BY MR. WALKER) Mr. Steele, I'd asked you a  
12 question before the break about Jim Sharp. I think -- you  
13 don't know what work he was doing in relation to this case?

14 A. Not exactly, no.

15 Q. Well, what is it you do know about what he was  
16 doing?

17 A. He lives in stillwell, Oklahoma, which is right in  
18 the middle of all this poultry territory. And Mr. Fisher  
19 supplied him with a camera and questionnaires similar to  
20 what we have and wanted him to make observations and turn  
21 the stuff into Mr. Fisher.

22 Q. But you -- you were not supervising Mr. Sharp's  
23 work?

24 A. No, sir.

25 Q. Did he provide whatever documentation he generated



STEVE STEELE

April 7, 2009

49

1 to you at any time?

2 A. Not that I remember.

3 Q. So your understanding was he was working directly  
4 for Mr. Fisher?

5 A. He was working directly for Mr. Fisher -- or  
6 Dr. Fisher. I'm sorry.

7 Q. And then I should say Dr. Fisher as well. I'm  
8 sure he worked pretty hard for that.

9 Do you have any understanding why Mr. Sharp  
10 was not under your direction?

11 A. He's not a police officer.

12 Q. Is that the only reason?

13 A. Well, our mission was somewhat different. We  
14 would go out en masse one or two days a week in the peak  
15 times of year of April, May or June. Where I believe that  
16 Mr. Sharp was on his own schedule to do what he wanted  
17 anytime he wanted.

18 Q. And when you talk about working during the peak  
19 times of year in April, May and June, peak for what?

20 A. The application of litter.

21 Q. I'd like to get back in a moment to the documents  
22 in Exhibit 4. But before that, we talked earlier about the  
23 lack of any environmental training, environmental  
24 agriculture training that you received as a police -- as a  
25 policeman; right?

STEVE STEELE

April 7, 2009

50

1 A. Correct.

2 Q. Did you receive any training for the purposes of  
3 this particular assignment?

4 MS. WEAVER: Object to form.

5 A. Legal training?

6 Q. (BY MR. WALKER) Did you receive any environmental  
7 training for -- for -- to help you accomplish the work you  
8 were doing in this --

9 A. No, sir.

10 Q. Did you have any training meetings whatsoever in  
11 relation to this case?

12 A. Yes, sir.

13 Q. Okay. When was that?

14 A. We had a meeting at 222 South Kenosha, which was  
15 the building that housed Miller Law where they introduced  
16 the GPS's to us, the cameras and we took a little brief  
17 tutorial on operating that equipment.

18 Q. Other than that training meeting in Kenosha, did  
19 you have any other training for this case?

20 A. No, sir.

21 Q. And that -- the purpose of the Kenosha training  
22 was to become familiar with how to operate the GPS  
23 equipment and how to operate the cameras?

24 A. To familiarize ourselves. Most of us had already  
25 been trained in the use of digital cameras. This camera --

STEVE STEELE

April 7, 2009

51

1       these cameras belonged to Lithochimiea.

2               Q.   So just to become familiar with that particular  
3 camera; right?

4               A.   Yes, sir.

5               Q.   I've got problems running the ones I got in my own  
6 house, so I understand that.

7                       Were those digital cameras?

8               A.   Yes, sir.

9               Q.   How did you transfer the information that you got  
10 on those digital cameras to Mr. Fisher or whoever --

11              A.   They -- they had memory.   Sorry.

12              Q.   -- whoever was asking for the information?

13              A.   They went to Mr. Fisher.   There's a memory chip in  
14 every camera and we would give him the memory chip or if we  
15 were finished with the project for a long period of time,  
16 let's say it was the last day that we knew we would be  
17 doing something, we would give him his camera back.

18              Q.   And -- so you'd give him a memory chip and then  
19 would he give you an empty memory chip back to -- to use?

20              A.   If we did two days' work in a row, we would just  
21 keep the stuff until the end of the second day.   At the end  
22 of -- whatever was the end day for that week, we would give  
23 him those chips.   Normally he would take them, process,  
24 copy or whatever he did with them and then give us back  
25 those empty chips with more maps or photographs for us to

STEVE STEELE

April 7, 2009

52

1 go out and locate things the next week.

2 Q. How about the GPS equipment that you used, what  
3 training were you getting on the GPS equipment?

4 A. These were Garmin GPS handheld deals. They were  
5 pretty simple. And we went out in the parking lot and  
6 located ourselves and took a little tutorial out there and  
7 that's how we learned how to use those.

8 Q. And how did -- did the GPS equipment record data?

9 A. Yes, sir.

10 Q. And how did you transmit that? Did you transmit  
11 that data to Dr. Fisher?

12 A. We gave the whole unit to Dr. Fisher.

13 Q. And then he would give the unit back to you after  
14 he did whatever he wanted to do with it?

15 A. Yes. Yes. The GPS's and the chips were cleaned  
16 off the next week and they were like brand-new, virtually.

17 Q. Was there ever an occasion that you went out in  
18 the field to make observations that you did not have a GPS  
19 piece of equipment and a camera?

20 A. Not that I can recall.

21 Q. In the work that you were doing out in the field  
22 investigating, did you ever have a situation where the GPS  
23 or the camera that you were using malfunctioned?

24 A. No, sir.

25 Q. So am I correct in saying that over the course of

STEVE STEELE

April 7, 2009

53

1 your entire career as a policeman and the course of the  
2 investigation work that you did in this case, you've never  
3 received any environmental agricultural training?

4 MS. WEAVER: Object to the form.

5 A. You're correct.

6 Q. (BY MR. WALKER) Are you aware of any of the  
7 investigators that you supervised having ever received any  
8 environmental agriculture training?

9 A. I wouldn't know.

10 Q. That -- my question is, are you aware of any of  
11 them ever having received any environmental --

12 A. For the purposes of this lawsuit --

13 Q. -- training --

14 A. Sorry. I interrupted you. But for the purpose of  
15 this lawsuit, I would say no, but I know that some have a  
16 farm background and I don't know what they did as younger  
17 people.

18 Q. If they received any training, you're not aware of  
19 it; right?

20 A. That's correct.

21 Q. You were supervising all of these other  
22 investigators; right?

23 A. True.

24 Q. Do you have any reason -- strike that.

25 In the course of supervising them, you had

STEVE STEELE

April 7, 2009

54

1 occasion to talk with each of them about the work they were  
2 doing; right?

3 A. Yes, sir.

4 Q. And in the course of those discussions in the  
5 course of your supervisory duties, none of them ever  
6 communicated to you that they had any specific  
7 environmental training relating to agricultural issues?

8 A. No, sir.

9 Q. They did not communicate that to you?

10 A. No, sir.

11 Q. I just want to be sure I've got the full inventory  
12 of names of people who worked under your direction on this  
13 case for the investigation work. I'll just list them and  
14 ask you if there's anybody else. Okay? Mr. Gary Stansill,  
15 Mr. Rod Hummel, Rachel Hummel, Liz Weatherly, Shane Tuell,  
16 Jack Walton, Darren Froeming, Mike Nance, Tim Bracken, Mike  
17 Huff, Tim Jones, Danny Lynchard, and Kurt Gardner. Those  
18 are the names we've talked about so far; correct?

19 A. Yes, sir.

20 Q. And then there was Mr. Jim Sharp, you're aware of,  
21 worked in some sort of investigation capacity but not under  
22 your direction; right?

23 A. Yes, sir.

24 Q. Other than the people I just went through, are  
25 there any other individuals that you're aware of who

STEVE STEELE

April 7, 2009

55

1 conducted investigations, either under your direction or  
2 under the direction of Lithochimiea?

3 A. Under my direction I can answer clearly, those are  
4 the only people involved. If they had some other person, I  
5 don't know it.

6 Q. Other than Mr. Sharp?

7 A. That's the only exception I know of.

8 Q. Back to Exhibit 4, on the first page. You -- you  
9 mention about maybe ten lines down that you preferred to  
10 work the areas closer to Tulsa first. Why did you have  
11 that preference?

12 A. We could work longer in the field and get more  
13 experience, but it didn't work out that way.

14 Q. And why didn't it work out that way?

15 A. We were given the giant photographs and we went by  
16 the schedule or the manner in which the GIS expert was  
17 producing those.

18 Q. When you were working with the photographs and  
19 maps that Mr. Fisher provided to you, did you make any  
20 markings on them, annotate them, anything like that?

21 A. No. We had another sheet of paper to make our  
22 notes on, our observations on.

23 Q. Were you aware of any of the investigators working  
24 under you annotating or marking up the maps that were being  
25 used?

STEVE STEELE

April 7, 2009

56

1 A. No, sir.

2 Q. Did you give all of those maps back to Dr. Fisher?

3 A. Yes, sir.

4 Q. And your understanding is -- well, I guess you  
5 were collecting the information from your investigator  
6 teams; correct?

7 A. Yes, sir.

8 Q. And they returned those maps each time?

9 A. Yes, sir.

10 Q. The first page of Exhibit 4 indicates that the  
11 rate for a journeyman detective is \$27 and 76 per hour at  
12 the time of this e-mail was written. Do you see that?

13 A. Yes.

14 Q. And it says that it's not adjusted. What does  
15 that mean?

16 A. Police officers in Tulsa receive other moneys for  
17 education, for years of experience, longevity pay, so that  
18 is the base amount without the add-ons.

19 Q. And -- so you were suggesting that they be paid  
20 \$28 an hour, just slightly more than their base amount;  
21 correct?

22 A. That was first year, yes.

23 Q. Okay. Is that what, in fact, they were paid for  
24 that work?

25 A. At the beginning.



STEVE STEELE

April 7, 2009

57

1 Q. And then it went up?

2 A. Yes, sir.

3 Q. And how did -- how much did it go up later on?

4 A. I think when we finished, the investigators, I  
5 believe, were making either \$35 or \$38 an hour and I was  
6 making \$55 an hour.

7 Q. And you started out in March 17th of 2005 at  
8 \$41.43 an hour?

9 A. I believe I was more than that because that was an  
10 unadjusted rate. And I'm gonna volunteer some information.  
11 The people working for me were not gonna go over there and  
12 take a cut in pay, take a vacation day and go to Arkansas  
13 and take pictures for less money than they can sit right  
14 down here at the police station.

15 Q. Fair enough.

16 A. So we had to raise their pay. I had to -- I won't  
17 say a mini revolution, but it was suggested that if you  
18 guys want us to keep doing this, we need some more money.

19 Q. All right.

20 A. And that's -- that's how the pay raises went up.

21 Q. So when you -- when you made that request on  
22 behalf of the investigators, the State paid more money?

23 A. I made the request to Dr. Fisher and he told me  
24 that I needed to talk to Mr. Garren. I made the request  
25 and never heard a peep and billed them that way from then

STEVE STEELE

April 7, 2009

58

1 on.

2 Q. It says in Exhibit 4 that your adjusted rate is  
3 \$41.43 an hour. Did you mean to say unadjusted?

4 A. Unadjusted.

5 Q. Were you also paid \$5 an hour for each person that  
6 you supervised while they were in the field?

7 A. Yes, sir.

8 Q. So on the day that you had four two-person  
9 investigator teams out, including yourself being on those  
10 teams, you had seven additional investigators that you were  
11 supervising?

12 A. Yes, sir.

13 Q. And -- so you were paid an additional \$35 an hour  
14 for the times that they were all in the field together?

15 A. Yes, sir.

16 Q. How much in total did -- were you paid for your  
17 work on this case?

18 A. I handed that information to you. But over the  
19 four years, it's close to, I think, \$95,000. The bulk of  
20 it in '05, '06 and '07.

21 Q. Were you being -- was the hourly rate that you  
22 charged at least as much as you were paid to work as a  
23 police officer for the City of Tulsa?

24 A. When I left the police department, I made about  
25 \$100,000 a year. And you divide that by 2008, it will give

STEVE STEELE

April 7, 2009

59

1       you an hourly figure. And it was very -- it was  
2       comparable. I was making -- the more people I supervised,  
3       the better off I did.

4             Q. Okay.

5             A. But my base pay from this lawsuit working for  
6       Lithochimiea was pretty comparable to what I made working  
7       over here.

8             Q. And for the investigators who were working under  
9       you, after the pay adjustment was made from where they  
10      started, were they making at least as much or more than  
11      they made as police officers?

12            A. Yes.

13            Q. You also indicated that you'll testify in this  
14      case at no cost; correct?

15            A. Yes.

16            Q. So you're testifying at no charge today other than  
17      the witness fee that you said --

18            A. No. I'm gonna charge them today. Because when we  
19      made this agreement, it was over the ground truthing of  
20      finding these chicken houses on a project that was gonna  
21      last about a month.

22            Q. Okay. This -- this March 17th e-mail indicates  
23      that you will accomplish the goals of photography and  
24      documentation.

25            A. Uh-huh.

STEVE STEELE

April 7, 2009

60

1 Q. Is that the ground truthing work?

2 A. Both. But use both those terms also for finding  
3 the application of litter.

4 Q. And in the middle of the first page of Exhibit 4,  
5 it says the other part of the project, the video land  
6 application. That's the other project; right?

7 A. Right. They -- they gave us video cameras and  
8 they were very interested in seeing that process. But as  
9 far as finding the chicken house to the field and back to  
10 chicken house, we hadn't -- we've been down that road. At  
11 this time period they said they had three weeks to five  
12 weeks of work doing -- and while we were out if we saw  
13 this, we would take a video of it.

14 Q. Okay. I'm just confused. At the time you started  
15 the project, were you doing the land application  
16 surveillance or --

17 A. No, sir.

18 Q. -- were you doing the ground truthing of the  
19 poultry houses?

20 A. Ground truthing of the poultry houses.

21 Q. Okay. In this e-mail on March 17th, 2005 was from  
22 the beginning of your work at that time?

23 A. Right. We -- the object of our employment was to  
24 ground truth. But while ground truthing if we saw the  
25 application, please take video of it.

STEVE STEELE

April 7, 2009

61

1 Q. And this e-mail contemplates that you're gonna do  
2 that; correct?

3 A. Yeah. We had never -- had never been to the  
4 Watershed yet. So when I made this e-mail, it was hoping  
5 that these things would come into fruition.

6 Q. And -- so what -- whatever you said in this  
7 e-mail, your testimony today is that you're gonna be  
8 charging for the time that you're spending in deposition?

9 A. Today, yeah.

10 Q. Today. And how about testimony at trial if we  
11 ever get there?

12 A. If I get there, yeah.

13 Q. You will be charging for your time?

14 A. (Witness nodding head.)

15 Q. Yes or no?

16 A. Yes.

17 Q. I just needed an audible response.

18 A. I'm sorry. I'm not saying they're gonna pay me,  
19 but I'm gonna send them a bill.

20 Q. There can be a difference.

21 If you could turn to the second page of  
22 Exhibit 4, I'll just represent to you that it appears to be  
23 substantially the same e-mail as Page 1, also sent on March  
24 17th, 2005 but three minutes later than Page 1 was sent; is  
25 that correct?

STEVE STEELE

April 7, 2009

62

1 A. I don't know.

2 Q. Do you recall sending two e-mails one after  
3 another on this subject that day?

4 A. No. And it really doesn't make sense to send the  
5 second one after the first one. The first one has more  
6 documentation to it.

7 Q. Well, can you tell the difference between the two  
8 is that the second e-mail doesn't contain the cost  
9 information?

10 A. Right.

11 Q. Can you tell me why that would have been sent that  
12 way?

13 A. I don't know. I don't remember.

14 Q. Is it your understanding from comparing these two  
15 e-mails that you deleted the cost information and then  
16 re-sent the e-mail?

17 MS. WEAVER: Object to form.

18 A. I believe I sent the first one.

19 Q. (BY MR. WALKER) You don't think you sent the  
20 second one?

21 A. I don't know. I guess so, because it came from  
22 them.

23 Q. It came from you; right?

24 A. Well, it's sent from me to Rick Garren.

25 Q. But you don't have any explanation for the

STEVE STEELE

April 7, 2009

63

1 difference in the two e-mails?

2 A. No. No, sir.

3 Q. If we can go to the third page of Exhibit 4. This  
4 is for the -- that page is not an e-mail that you sent, but  
5 it mentions somebody who you brought up, a Mr. Ed Fite.

6 A. Yes.

7 Q. Do you see that?

8 A. Yes, sir.

9 Q. What was Mr. Ed Fite's role, as far as your  
10 knowledge goes, in this case?

11 A. Ed Fite, to my knowledge, has nothing to do with  
12 this case. This -- this e-mail it talks about me but it's  
13 from Rick Garren to David Page and Bert Fisher and this  
14 information I really didn't know. But it says Ed Fite will  
15 make four rangers available and that never happened.

16 Q. It indicates that Ed Fite was going to assist with  
17 arrangements to have airplanes spot field application. Do  
18 you see that?

19 A. Yes, sir.

20 Q. To your knowledge, did Mr. Fite or anybody ever  
21 provide aerial surveillance to assist your work?

22 A. Ed Fite never did that. I went out and got an  
23 airplane.

24 Q. You -- do you have any understanding of any role  
25 in this case that was performed by Mr. Ed Fite?

STEVE STEELE

April 7, 2009

64

1 A. No, sir.

2 Q. What arrangements did you make for air -- air  
3 surveillance?

4 A. Since we did not get anything from Ed Fite or  
5 Scenic Rivers, we needed an aircraft and a pilot. Danny  
6 Lynchard, who's the police chaplain, is also a pilot, owned  
7 his own airplane. We didn't use his. We rented an  
8 airplane, a Cessna 172 to make some photographs from the  
9 air.

10 Q. Now, you indicated that you didn't get anything  
11 from Scenic Rivers or Ed Fite regarding aerial  
12 surveillance. Do you know if a request was made for those  
13 services through Ed Fite and Scenic Rivers?

14 A. I don't know. Mr. Garren had mentioned Mr. Fite's  
15 name to me before and -- but as far as what Mr. Fite did, I  
16 don't know.

17 Q. And I guess really what I'm getting is if you had  
18 some understanding that Mr. Fite or the Scenic Rivers  
19 Commission was going to provide aerial surveillance, but  
20 didn't go through with that and so you wound up getting it  
21 yourself. Is that how this happened?

22 A. I don't know what agreement, if any, was between  
23 Mr. Fite and Mr. Garren. I know that we needed an aircraft  
24 and I just made arrangements for it.

25 Q. How many days were aerial surveillance conducted



STEVE STEELE

April 7, 2009

65

1 over the course of this investigation?

2 A. I don't know many. And Mr. Lynchard when he comes  
3 forward to testify, he'll have his logbook and he'll be  
4 able to provide that information. Because I didn't always  
5 ride with Mr. Lynchard. Different employees from  
6 Lithochimiea went with Mr. Lynchard. Mr. Lynchard had  
7 other missions that didn't involve me.

8 Q. Did you ever receive aerial photos that were  
9 obtained during Mr. Lynchard's missions?

10 A. I took some.

11 Q. You were in the plane?

12 A. At some times.

13 Q. And what did you do with those photos?

14 A. Turned them over to Lithochimiea and Dr. Fisher.

15 Q. Okay. And what was the purpose of the aerial  
16 surveillance?

17 A. To -- it was very difficult sometimes to find the  
18 litter trucks and it's very easy to spot them from the sky  
19 and it's very difficult sometimes from the ground. And we  
20 used that to assist in finding where litter was being  
21 spread in the Watershed.

22 Q. Did you use -- what kind of camera were you using?

23 A. The same digital cameras that we were introduced  
24 to at 222 South Kenosha.

25 Q. Were you flying low enough to the ground where you

STEVE STEELE

April 7, 2009

66

1 could identify with the camera or by eye the markings on  
2 the vehicles?

3 A. Oh, no, sir.

4 Q. Is it fair to say that you were just tracking  
5 where they went and you'd make some notation of the  
6 location you might expect to find that truck on the ground?

7 A. Yes, sir.

8 Q. And then was the point to send an investigator  
9 team out to that location to see what they could observe?

10 A. Yes, sir. We had radios and we were in contact  
11 from the air to the ground.

12 Q. Is it fair to say that you were conducting aerial  
13 surveillance of people engaged in activities that -- for  
14 which you had no information that they were doing anything  
15 wrong or illegal?

16 MS. WEAVER: Object to form.

17 A. That's true. We don't know that they were doing  
18 anything unethical or unlawful. We were trying to observe  
19 the industry and what they do.

20 Q. (BY MR. WALKER) And is it also true that in the  
21 course of taking photographs and surveilling properties of  
22 the growers, that the investigators took care not to be  
23 seen or observed while conducting their work?

24 A. We tried our best.

25 Q. You were spying on them; right?

STEVE STEELE

April 7, 2009

67

1 MS. WEAVER: Object to form.

2 A. I don't know if you could call it spying if you're  
3 on public access. It's the same thing as anybody driving  
4 down the road could see. The plaintiffs were interested in  
5 the process of how litter is spread and where, liquid and  
6 dry.

7 Q. (BY MR. WALKER) And you don't consider trying to  
8 observe what people are doing on their private property  
9 spying when you have no reason to believe that they're  
10 doing anything improper or illegal?

11 MS. WEAVER: Object to form.

12 A. I don't -- no, I don't consider it spying if I'm  
13 on public property.

14 Q. (BY MR. WALKER) It would be spying if you were  
15 actually on their property?

16 A. If I was sneaking around on somebody's property  
17 without their permission, I would feel that was wrong.

18 Q. Did you ever hear of any instance of one of the  
19 investigators working for you going onto any private  
20 property to conduct their work?

21 A. Not that I know of.

22 Q. Did you go onto any private to conduct your work?

23 A. No, sir. We were instructed not to.

24 Q. And you were also instructed to do your best not  
25 to be seen; right?

STEVE STEELE

April 7, 2009

68

1           A. Yes, sir. And the words from Mr. Garren were do  
2 not engage the folks that are doing their jobs over there.

3           Q. And remind me, why is it that he didn't want you  
4 to engage these people?

5           A. You'd probably have to ask him. My -- I surmise  
6 that he didn't want to upset these people.

7           Q. Do you think it would have upset them if you would  
8 have approached them?

9           A. Oh, it did upset people if they saw somebody with  
10 a camera sneaking around them -- down the road by their  
11 property.

12          Q. If somebody did that from the street at your  
13 house, would you be upset?

14          A. I'd want to know why.

15          Q. The next page of Exhibit 4 is another March 17th,  
16 2000 e-mail from you to Mr. Garren to Mr. Fisher. Can you  
17 identify what that is?

18          A. This was a list of individuals who would be able  
19 to come to 222 South Kenosha for the GPS training and  
20 familiarize themselves with the digital cameras.

21          Q. There were -- this is a list of nine names;  
22 correct?

23          A. Right.

24          Q. And I think we went through the list and I  
25 identified -- well, counting you --

STEVE STEELE

April 7, 2009

69

1 A. Others were added.

2 Q. Counting you, 14 people who worked on this project  
3 and I'm carving out Jim Sharp; right?

4 A. Right.

5 Q. Did the people who were not on the e-mail list of  
6 Exhibit 4 here later receive the same training --

7 A. Yes.

8 Q. -- with the equipment?

9 A. Yes, sir. Not from us -- not from Bert Fisher.

10 Q. Okay. If you can turn to the next page of Exhibit  
11 4 and it's a two-page document dated January 10th, 2005,  
12 which on its face is addressed to a Mr. Jim Sharp of  
13 Stillwell, Oklahoma on West Chestnut Street. Is -- is that  
14 the same Sharp that we've been talking about?

15 A. That's the same Sharp. I've never seen this  
16 document. And I can't believe that the date on it is  
17 correct.

18 Q. Why don't you believe the date is correct?

19 A. That's before -- that's before -- I knew of Sharp.  
20 I told Fisher of Sharp. This is before Fisher ever had a  
21 conversation with me about any of this.

22 Q. So you think it would have to be sometime after  
23 you were hired on this case; right?

24 A. Yes, sir.

25 Q. So sometime after March of 2005?

STEVE STEELE

April 7, 2009

70

1 A. Yes, sir.

2 Q. You testified earlier that you had an agreement, a  
3 written agreement with -- was it Mr. Fisher or Mr. Garren?

4 A. Mr. Garren.

5 Q. Did the agreement look like this? Is this  
6 basically the form of agreement that you had with  
7 Mr. Garren?

8 A. It was not this detailed.

9 MR. WALKER: I'll be going out of order at  
10 some point here, so I'll tell you what to mark.

11 THE REPORTER: Okay.

12 (Exhibit No. 5 was marked.)

13 Q. (BY MR. WALKER) The court reporter has marked as  
14 Exhibit 5 another e-mail and some following documents. I  
15 don't expect you to have received the first -- the e-mail  
16 on the first page, but can you tell me if you recognize  
17 that e-mail?

18 A. I don't. I've never seen it before.

19 Q. Following that e-mail is a document that on the  
20 first page is titled Verification of Land Application of  
21 Poultry Waste. Do you see that?

22 A. Yes, sir.

23 Q. And if you can thumb through that document, which  
24 is four pages long, and tell me if you recognize that  
25 document.

STEVE STEELE

April 7, 2009

71

1 A. I've never seen this before.

2 Q. Were you given a document that set forth, as this  
3 document does, the scope of work for which you were going  
4 to do?

5 A. Not like this. We were given questionnaires to  
6 fill out and Dr. Fisher visited with us about, you know,  
7 some of these same items, but there were some things here  
8 that we just couldn't do. Identify any visible stream,  
9 creek or drainage system there. We were not -- we couldn't  
10 do that in the car.

11 Q. Did you ever attempt to do that from the air?

12 A. No, not -- not -- not seeing what I'm reading on C  
13 under No. 2.

14 Q. Which is to identify proximity to any visible  
15 stream, creek, drainage system of the event that you were  
16 looking at; right?

17 A. Right.

18 Q. You didn't do that kind of work?

19 A. No.

20 Q. And I will go through these things to see that  
21 this does outline some of the substance of what work you  
22 did. I guess my question is, did you get any written scope  
23 of the work for this project?

24 A. Yes. But it was mostly in the guidelines that we  
25 took with us every day, which were to fill out the

STEVE STEELE

April 7, 2009

72

1 questionnaire.

2 Q. And I understand that you were provided with forms  
3 to fill out.

4 A. Uh-huh.

5 Q. What I'm asking is if you got a -- apart from  
6 those forms, a scope of work, in writing?

7 A. If I do or if I did, I don't remember.

8 Q. Let's go through some of the things on this. It  
9 says that you have to remain on public property at all  
10 times. And that's what you did in this case; right?

11 A. Yes, sir.

12 Q. That's what your investigators did?

13 A. They were supposed to, yes, sir.

14 Q. To your knowledge, that's what they did?

15 A. Yes, sir.

16 Q. They were supposed to follow your directions as  
17 well; correct?

18 A. Yes, sir.

19 Q. One of the objectives of your work was to document  
20 actual land application; right?

21 A. Yes, sir.

22 Q. And in the course of doing that work, you were to  
23 take videos; correct?

24 A. Yes.

25 Q. And you did take videos?



STEVE STEELE

April 7, 2009

73

1 A. Videos and digital.

2 Q. Digital photography?

3 A. Right.

4 Q. Still -- still photos?

5 A. Yes, sir.

6 Q. You also used the GPS system to record  
7 coordinates; right?

8 A. Yes, sir.

9 Q. You took efforts to identify the landowner for  
10 whatever activity was involved; correct?

11 A. And in this, you will have two owners. This is  
12 part of the difficulty -- a difficulty, because you can  
13 look at an 80-acre patch of ground out in the middle of  
14 nowhere, you don't have any clue who owns it unless you go  
15 to the courthouse so we couldn't document that.

16 Q. Did you go to the courthouse and resolve for every  
17 investigatory operation who owned the land that was  
18 involved?

19 A. No, sir. We just documented where it was at.

20 Q. Did you go to the courthouse and identify for any  
21 investigation, observation that you or your team made who  
22 owned the land?

23 A. No, sir.

24 Q. You were to record the date and time of the event;  
25 correct?

STEVE STEELE

April 7, 2009

74

1 A. Yes, sir.

2 Q. And you did that?

3 A. Yes, sir.

4 Q. And you were to record visible weather conditions;  
5 correct?

6 A. That wasn't -- didn't turn out to be pertinent.  
7 We didn't go -- if it was raining we didn't go. We only  
8 went on nice days.

9 Q. Okay. So if you were out taking -- taking  
10 pictures or shooting video, it wasn't raining; right?

11 A. That's correct.

12 Q. All of that work had to be done on nice days?

13 A. It's very difficult to photograph and video in the  
14 rain.

15 Q. And No. 5 says you were also to identify the name  
16 of the applicator if you could; correct?

17 A. Yes.

18 Q. Is that something that you and your teams  
19 endeavored to do?

20 A. No. Well, sometimes you could get a license plate  
21 number or a name off the side of a truck. But as far as  
22 going beyond that to identify anybody to use means that the  
23 Tulsa Police Department would provide, we did not do that.

24 Q. Okay. You didn't try and hail them and pull over  
25 the driver and ask them questions?

STEVE STEELE

April 7, 2009

75

1 A. No, sir.

2 Q. Were you also -- did you also understand that you  
3 were not to engage the drivers of these trucks?

4 A. Yes, sir.

5 Q. The next page of Exhibit 5 is titled  
6 Identification of Poultry Grower Farms. Do you see that?

7 A. Yes.

8 Q. Is this the scope of work essentially described,  
9 what you did for the ground truthing phase of the project?

10 A. Yes, sir.

11 Q. So the objective was to identify the structures  
12 numbered on an aerial map that was provided to you?

13 A. Yes, sir.

14 Q. And again, in the course of this work, you and  
15 your investigation team was directed to remain on public  
16 property at all times?

17 A. Yes.

18 Q. Would you agree with me that in the course of your  
19 work by having to remain on public property at all times,  
20 you were limited on what you could see?

21 A. In some instances, you couldn't see anything and  
22 you would take a picture of a road going up a hill and take  
23 a GPS and say it was unavailable for public access.

24 Q. So sometimes you couldn't see anything as far as  
25 the activity you were looking for?

STEVE STEELE

April 7, 2009

76

1           A. That's correct. And sometimes things were too far  
2 away where you couldn't identify if the chicken house was  
3 active or if it's used for something else.

4           Q. Sometimes is it fair to say that you could take a  
5 pile of -- you could take a picture of a pile of something  
6 on the property and you could not discern what it was  
7 because of where you were?

8           A. Sometimes we would call a suspected litter pile,  
9 if it had feathers in it or things like that or if it had  
10 an activity of scavenger birds floating around over the top  
11 of it, but we would just write suspected litter pile.

12          Q. But you could only observe what you could observe  
13 from the public roadway; correct?

14          A. Right.

15          Q. So in no case did you ever go take any samples of  
16 any of the suspected litter piles that you observed in the  
17 course of your work, did you?

18          A. Brought back litter samples but from the roadway.

19          Q. I'm asking whether you took any samples of any of  
20 the litter that you observed --

21          A. No, sir.

22          Q. -- litter piles on any grower's properties.

23          A. No, sir.

24          Q. So you didn't do any testing of that material?

25          A. Of course not, sir.

STEVE STEELE

April 7, 2009

77

1 Q. And in the course of the ground truthing project,  
2 you took pictures; correct?

3 A. Yes, sir.

4 Q. And shot the GPS coordinates; right?

5 A. Yes, sir.

6 Q. You didn't take video for this purpose, did you?

7 A. No, sir.

8 Q. In the middle of the page, there's a list of  
9 notation of activity. The first point is ventilator  
10 activity. Do you see that?

11 A. Yes, sir.

12 Q. Did you -- did you endeavor to observe whether the  
13 ventilation was working at these poultry barns or at these  
14 barns?

15 A. Yes, sir.

16 Q. And what was the purpose of that observation?

17 A. It was just another piece of information showing  
18 if they're expending the energy to spin the ventilation  
19 system, it was probably an active barn.

20 Q. All right. You also looked at the condition of  
21 the roads on property; correct?

22 A. Yes.

23 Q. Or at least in some cases you would do that;  
24 right?

25 A. If you -- wherever you could see.

STEVE STEELE

April 7, 2009

78

1 Q. And what does an active road look like?

2 A. Active roads are not grown over with weeds. It  
3 looks like an active road. Very seldom did we ever mention  
4 an active road, but you could tell it was something that  
5 was also almost abandoned just by the growth of the  
6 foliage.

7 Q. You'd also document the condition of the structure  
8 being observed; correct?

9 A. Yes.

10 Q. You would endeavor to document whether there were  
11 feed silos present; right?

12 A. Yes, sir.

13 Q. Again, these were things to indicate activity or  
14 not?

15 A. Yes, sir.

16 Q. All right. You'd document whether the farmer was  
17 present to indicate activity or not; right?

18 A. Yes. If you saw work being done, you would  
19 document that.

20 Q. Okay. What was the purpose of documenting of  
21 poultry waste and dead birds?

22 A. That was the interest of the plaintiff. If there  
23 was poultry waste or dead birds present, they wanted a  
24 photograph.

25 Q. What was the purpose of documenting odors?

STEVE STEELE

April 7, 2009

79

1           A. The odor mainly of chicken waste or chicken litter  
2           is distinct. And they wanted to know if we smelled that in  
3           the area, believing that that barn or these group of barns  
4           were active.

5           Q. Were you attempting to reach conclusions about  
6           whether a particular property was -- was active based on  
7           the smell?

8           A. No. We were documenting all our observations,  
9           including sound and smell.

10          Q. And the sound part, what were you listening for?

11          A. Chickens.

12          Q. And Point No. 5 talks about observance of any  
13          stream, creek, drainage area in proximity. And I take it  
14          from your earlier testimony that that's also something that  
15          you could not do because of your limitations on where you  
16          could view the properties from?

17          A. We didn't have topographical maps to show where  
18          anything was downhill. I mean, we could guess, but then we  
19          couldn't get to it by public access.

20          Q. So that wasn't something that you did?

21          A. No.

22          Q. Is it fair to say that you and your investigators  
23          in performing this work for the State did your work  
24          diligently?

25          A. Tried to.

STEVE STEELE

April 7, 2009

80

1 Q. Is it fair to say that you diligently documented  
2 the things that you were asked to document?

3 A. As far as I know, yes, sir.

4 Q. Is it fair to say that you diligently documented  
5 the -- whatever litter piles or activity of interest that  
6 the State wanted to hear about?

7 A. It was our every attempt to do so.

8 Q. That was what the State was paying you to do;  
9 right?

10 A. Yes, sir.

11 Q. The next page of Exhibit 5 indicates that the  
12 project coordinator is Bert Fisher. Is that the Mr. Fisher  
13 that we've just been talking about today?

14 A. Yes, sir.

15 Q. Okay. Do you -- do you associate him with the  
16 title project coordinator for your work?

17 A. No, sir. I didn't know he had that title also.

18 Q. It says the legal advisor was Mr. Richard Garren.  
19 Do you see that?

20 A. Yes, sir.

21 Q. Now, is it your understanding that he was at least  
22 one of the legal advisors for this work?

23 A. Yes, sir.

24 Q. And the investigator team members at the bottom,  
25 can you verify for me that those are the same nine people



STEVE STEELE

April 7, 2009

81

1 that you said were gonna be present for the initial  
2 training?

3 A. I believe so, yes, sir.

4 Q. On the next page, it has a place for airplane  
5 spotter and it's blank and that's -- is it your  
6 understanding that the airplane spotter would be a person  
7 who was up assisting with the aerial surveillance on this  
8 project?

9 A. This -- these documents, even though I've not seen  
10 them, but from what it looks like naming Fisher as the  
11 coordinator -- or not the coordinator but whatever you call  
12 him, these were more or less the planning documents. I've  
13 never seen them before today. And this airplane spotter  
14 was never provided until I went and found one.

15 Q. Is it fair to say that with the exception of  
16 making observations of streams, creeks and drainage areas,  
17 this document in Exhibit 5 describes the sum and substance  
18 of the work that you were doing?

19 A. Yes. With an exception.

20 Q. What exception is that?

21 A. On No. 6, under task, identify access road sites  
22 to perform edge of field runoff tests, we didn't do that.

23 Q. And that's No. 6 on Page 2 of -- well, let me --  
24 No. 6 on the third page of Exhibit 5?

25 A. Yes, sir, this No. 6.

STEVE STEELE

April 7, 2009

82

1 MS. WEAVER: Just to clarify the record, you  
2 have to identify it by Bates number.

3 MR. WALKER: Yeah, we could do that.

4 Q. That's page Fisher CORR 00002523.0002; correct?

5 A. Yes, sir.

6 Q. I think you testified earlier that you did the  
7 bulk of your work in the April, May and June time frame  
8 each year; correct?

9 A. Yes, sir.

10 Q. Starting in 2005?

11 A. Yes, sir.

12 Q. During that three-month period, how many days or  
13 hours did you spend investigating in the field?

14 A. A ton. I can't remember. The day would start  
15 very early.

16 Q. In 2005, you were still on the Tulsa Police Force;  
17 right?

18 A. Yes, sir.

19 Q. Do you recall how much vacation you took in that  
20 three-month period for the purpose of doing this work?

21 A. Quite a bit. I can't -- you know, any day I took,  
22 it would be vacation time or comp time or earned for a  
23 holiday or working overtime on another project, because I  
24 didn't get paid overtime compensation. After I got to the  
25 rank of lieutenant and above, we didn't get overtime. So

STEVE STEELE

April 7, 2009

83

1 if got called out in the middle of the night on something,  
2 I'd get time off later at the rate of time-and-a-half. So  
3 I'd use comp time or vacation time for this. And since we  
4 were using vacation time, we would start very early in the  
5 morning. Usually we would have a meeting at 6 o'clock,  
6 either at Locust Grove or West Siloam Springs and we  
7 wouldn't come home until it was too dark to take pictures.

8 Q. And when you had these meetings, were -- was it  
9 just you and the investigation teams that were working that  
10 day?

11 A. Yes, sir. And that's where I would distribute  
12 here's your maps and here's your aerial photographs and  
13 here's your questionnaires to whatever teams we had.

14 Q. Those weren't the kinds of meetings that  
15 Mr. Fisher or the lawyers were going to; right?

16 A. Oh, no, sir.

17 Q. And -- so you'd start at 6 a.m. and you'd go  
18 basically until dusk if you could; right?

19 A. Yeah. And this time of year or May, sometimes we  
20 didn't get home until 9:30.

21 Q. And I'm just trying to get your best. Estimate in  
22 the 2000 time frame, were you spending two days a week,  
23 three days a week, what was it, personally on this project?

24 A. It's hard to estimate, but I would say two days a  
25 week, at the tune of about 14 or 16 hours a day.

STEVE STEELE

April 7, 2009

84

1 Q. And that estimate would apply to that whole  
2 three-month period?

3 A. Yes. Except if we had bad weather or for some  
4 reason the material that we needed for this ground truthing  
5 was not available and we'd stand down.

6 Q. If it would rain, you couldn't go do your work;  
7 right?

8 A. No.

9 Q. Was your -- would you estimate that your level of  
10 effort in the three-month period from April to June in 2006  
11 was about the same?

12 A. Yes, sir.

13 Q. How about your level of effort from April to June  
14 of 2007?

15 A. My personal level was about the same, but we could  
16 did not use as many people as seven because we used an  
17 airplane a lot more.

18 Q. In 2006, would you estimate that you had the same  
19 number of investigators working as you did in 2005, same  
20 level of effort?

21 A. Yes, sir. But we did not always have four cars  
22 every day. I think some days there would only be two or  
23 three.

24 Q. Right. And then in 2007, you required less  
25 investigator time because you used more aerial

STEVE STEELE

April 7, 2009

85

1 surveillance?

2 A. Yes.

3 Q. How about your level of effort in 2008?

4 A. Very -- I would say very minimal. And this just  
5 really has nothing to do with the lawsuit. But in 2007, I  
6 became very ill and with cancer and I had to go through  
7 chemotherapy and a lot of things. That's one of the  
8 reasons I retired when I did and my involvement in this  
9 case was lessened quite a bit.

10 Q. Did somebody take your place as being the active  
11 leader of this effort for the investigation team?

12 A. I wouldn't say the active leader, but I did  
13 coordinate some things, but I didn't go to the field when I  
14 was ill. And for instance, Rod Hummel was in charge of  
15 serving a bunch of subpoenas in the later part or early  
16 part of '08 and '07 that I didn't have anything to do with.

17 Q. Did you receive any bonus payments in the course  
18 of your work?

19 A. No, sir.

20 Q. Were you at any time paid on a performance basis,  
21 say, for how many land application activities you observed?

22 A. No, sir.

23 Q. It was always an hourly basis?

24 A. Yes, sir.

25 Q. And that's true of all the investigators who

STEVE STEELE

April 7, 2009

86

1           worked for you?

2           A.   Yes, sir.

3           Q.   Do you know how Mr. Sharp was compensated?

4           A.   No, sir.

5           Q.   When you were taking GPS measurements in the  
6           field, you were taking those measurements from a public  
7           roadway; right?

8           A.   Yes, sir.

9           Q.   So you were not able to take latitude and  
10          longitude positional coordinates on the actual property you  
11          were observing; right?

12          A.   No, sir.   What we would do is get as close as we  
13          could on public access, click a GPS point and record that  
14          the apparent whatever we were looking at was so many feet,  
15          yards to whatever direction away we were from the GPS  
16          point.   For instance, if we saw when we were ground  
17          truthing four chicken barns, we would say these four  
18          chicken barns appear to be 200 yards south, southeast of  
19          this GPS point.

20               MR. WALKER:   Okay.   Well, it's noon.   We're  
21          almost out of tape.   It's probably a good time for a lunch  
22          break, so we'll do that.

23               THE WITNESS:   Okay.

24               (Break was taken from 11:59 a.m. to 1:03 p.m.)

25               THE VIDEOGRAPHER:   Okay.   You're back.

STEVE STEELE

April 7, 2009

87

1 Q. (BY MR. WALKER) Mr. Steele, it's now under -- or  
2 after lunch and I'll remind you you remain under oath for  
3 the remainder of your testimony today. Okay?

4 A. Yes, sir.

5 (Exhibit No. 10 was marked.)

6 Q. I'd like to hand you what the court reporter has  
7 marked as Exhibit 10. And can you identify that document,  
8 please?

9 A. Exhibit 10 is my 2005 1099 from Lithochimiea,  
10 Incorporated. And the next page is the 2006, 2007 and the  
11 final one is 2008.

12 Q. So are these the 1099s that you testified about  
13 earlier that are the statements of payments you received  
14 for this work from Lithochimiea?

15 A. Yes, sir. Yes, sir.

16 Q. And I just quickly added it up and it's somewhere  
17 around \$90,000 and that was what you testified you had been  
18 paid; right?

19 A. I think it was a little bit more, but yeah.

20 Q. Exactly, just a little bit more. Did you receive  
21 any payments for your work in this case, other than those  
22 that would be included within payments in Exhibit 10?

23 A. No, sir.

24 Q. Do you have any idea how much the State or  
25 Lithochimiea has paid for the investigation work that you

STEVE STEELE

April 7, 2009

88

1 and your teams did?

2 A. I've not kept a running total, but it's -- it's --  
3 I would probably make up 20 percent of it.

4 Q. So roughly maybe \$500,000 for all the work?

5 A. That would be strictly a guess.

6 Q. Okay. You -- you don't have a good estimate of  
7 what the total amount paid was?

8 A. No, sir.

9 Q. Do you know how much the State has paid for aerial  
10 surveillance activities?

11 A. No, sir.

12 (Exhibit No. 6 was marked.)

13 Q. Mr. Steele, the court reporter has marked Exhibit  
14 6. Can you identify what that is for me?

15 A. This is a document that's -- or it's a group of  
16 documents produced not by me.

17 Q. Have you seen a document like this before?

18 A. I may have. I'm not -- I -- I don't remember.

19 Q. I tell you, I -- I don't -- I was just trying to  
20 figure it out myself because there aren't any column  
21 headings or anything on the document that I can see and I  
22 thought you might be able to help us interpret or  
23 understand what this document was for. Can you in any way?

24 A. I cannot.

25 Q. In the documentation that you generated in the



STEVE STEELE

April 7, 2009

89

1 course of your work, you talked about the inspection sheets  
2 that you were provided; right?

3 A. Yes.

4 Q. Okay. And you -- did you use anything like  
5 logbooks, bound logbooks?

6 A. They were in logbooks. I mean, these inspection  
7 sheets were bound.

8 Q. Okay. So there were a number of blank sheets that  
9 were preprinted -- I'm sorry -- preprinted sheets that were  
10 bound so that they wouldn't become loose; is that correct?

11 A. Yes, and they were serialized.

12 Q. Meaning numbered?

13 A. Yes.

14 Q. And you also took photographs; correct?

15 A. Not necessarily always me. I usually drove. My  
16 partner did most of the photography.

17 Q. Okay. But collectively your group was taking  
18 photographs?

19 A. Yes, sir.

20 Q. And collectively your group was taking videos at  
21 times, too?

22 A. Yes, sir.

23 Q. Was -- was there any other media or means of  
24 documenting the work that you did, other than what we just  
25 described, the inspection sheets that were bound,

STEVE STEELE

April 7, 2009

90

1        photographs and videos?

2            A.    And the GPS things.

3            Q.    Okay.    And the GPS recordings was -- was another  
4        piece of information?

5            A.    Yes, sir.

6            Q.    Did you take any audio recordings in the course of  
7        your work?

8            A.    Not intentionally.

9            Q.    And what unintended audio recordings did you take?

10          A.    I think my partner may have recorded my voice,  
11        look, right there, things like that.

12          Q.    When you'd get excited about seeing things; right?

13          A.    Yes.

14          Q.    I guess I -- is it fair to say that there was a  
15        majority of the time that you spent in the field was spent  
16        looking for things to document rather than actually  
17        observing the activities you were looking for?

18          A.    Some days, yes.    Some days we were busy, just  
19        bing, bing, bing, one thing after another.

20          Q.    Did you spend a majority of your time overall  
21        looking for things to observe rather than actually  
22        observing?

23          A.    Yes, sir.    It's much like police work where you're  
24        on patrol looking.

25          Q.    And -- so is it fair to say that in those

STEVE STEELE

April 7, 2009

91

1 instances where maybe you got excited about seeing  
2 something, an observation, that the excitement was because  
3 you had found something that you had been looking for for  
4 quite sometime?

5 A. You might say that, sir.

6 Q. Because you spend hours finding nothing and then  
7 naturally you might get a bit excited about finding  
8 something that you were there to actually document?

9 A. On some days it would be like that, yes.

10 Q. It -- was it truly exciting to see a land  
11 applicator truck driving across a field?

12 A. I was happy to find it.

13 Q. Was it exciting?

14 A. Not exciting.

15 Q. Okay. I would think, you know, homicide detective  
16 work might be exciting.

17 A. Yes, it is.

18 Q. By comparison, anyway.

19 (Exhibit No. 7 was marked.)

20 Mr. Steele, the court reporter has marked for  
21 you Exhibit 7, which I'll represent is a compilation of  
22 some of the forms I found in Mr. Fisher's -- or in the  
23 State's production rather. I'd just like to take them one  
24 at a time. The first page of Exhibit 7, can you tell me  
25 what that is?

STEVE STEELE

April 7, 2009

92

1           A. This is a form that we were originally provided  
2           for the ground truthing, I believe.

3           Q. Did you have more than one type of form that was  
4           used for ground truthing?

5           A. Yes, sir.

6           Q. Can you identify within Exhibit 7 any other form  
7           that was used for ground truthing?

8           A. Yes, sir. This form that's second in line.

9           Q. The second page, which is labeled with the number  
10          1034 at the bottom right-hand corner?

11          A. Yes, sir.

12          Q. That was a ground truthing form?

13          A. Yes, sir.

14          Q. Which of -- did one of these forms predate the use  
15          of the other?

16          A. I believe the one you have on top was the first  
17          one.

18          Q. And -- and at some point when you got the second  
19          form for the ground truthing work, did you and your crew  
20          stop using the first form?

21          A. I think we used the first form until we ran out of  
22          them.

23          Q. And then you used the second form?

24          A. Yes. Lithochimiea provided the forms. And they  
25          came in bound books. And when we'd exhaust a bound book,

STEVE STEELE

April 7, 2009

93

1 we'd say we need new books.

2 Q. And at some point you got books that had the  
3 second form in them?

4 A. Yes, sir.

5 Q. Did Lithochimiea or anybody give you any  
6 explanation as to why the form changed for the ground  
7 truthing work?

8 A. No.

9 Q. Did the manner in which you conducted your work  
10 change due to the change in the form?

11 A. No.

12 Q. In your opinion, did the two forms ask for  
13 basically the same information?

14 A. Mostly, yes.

15 Q. Okay. Are there any significant differences in  
16 the way you conducted your work when you used one form  
17 versus the other?

18 A. The first form was --

19 Q. You did --

20 A. The first form was more check off the blank. On  
21 the second form, you had to do a little bit more essay  
22 work.

23 Q. Did -- did anybody explain to you that they wanted  
24 more essay work?

25 A. No, sir.

STEVE STEELE

April 7, 2009

94

1 Q. If you can turn to the third page of Exhibit 7  
2 which bears Bates No. 5198. Can you identify what that  
3 form is?

4 A. This form was used when finding a litter  
5 application and describe those activities. And also it  
6 gave us more room to put photo frame numbers associated  
7 with a digital photograph.

8 Q. Did you find that the other forms that you had  
9 didn't have enough room for the number of digital photos  
10 you were taking?

11 A. Well, they just -- it wasn't organized as well as  
12 this one.

13 Q. Were there any other versions or forms that were  
14 used by your team to document litter application  
15 activities?

16 A. Not that I remember.

17 Q. If you can turn to the fourth page of Exhibit 7,  
18 which has the Bates No. 4012. Is this a form that the  
19 investigator team used?

20 A. No, sir.

21 Q. Do you know what the purpose of this form was?

22 A. No, sir. I've never seen it before.

23 Q. I think I asked you earlier, your investigation  
24 team did not take any samples in the course of its work,  
25 other than I believe samples of what it suspected might be

STEVE STEELE

April 7, 2009

95

1 litter in public roadway or something like that?

2 A. With the exception we would pick up, as part of  
3 our time frame of working in this, dead chickens on the  
4 side of the road.

5 Q. Were those chickens tested? Did you test them?

6 A. I don't know. Not by me. We turned them in in a  
7 cooler to Lithochimiea and they took care of that.

8 Q. Was it the same thing with any litter samples that  
9 you collected on the roadway, you gave those to  
10 Lithochimiea?

11 A. Yes, sir.

12 Q. And do you know if those were ever tested?

13 A. No, sir.

14 Q. You just don't know?

15 A. I don't know.

16 Q. Did you or your crew ever collect any water  
17 samples in the course of your work?

18 A. No, sir.

19 Q. And I think you testified that you and your crew  
20 did not collect soil samples.

21 A. No, sir.

22 Q. I want to go back to the first page of Exhibit 7.  
23 When you were using this form to do your ground truthing  
24 work, you would input the date and time; correct?

25 A. Yes, sir.

STEVE STEELE

April 7, 2009

96

1 Q. And then there's a spot here for identifying the  
2 poultry type. Do you see that?

3 A. Yes, sir.

4 Q. Can you tell me what the difference is between a  
5 broiler, layer and pullet?

6 A. We couldn't tell the difference.

7 Q. Do you know what the difference is?

8 A. Pullet, layer and broiler are chickens.

9 Q. Do you know what the difference is among them?

10 A. No, sir.

11 Q. So what was the point of having the categories  
12 broiler, layer and pullet on the form?

13 A. I didn't design the form.

14 Q. Who did?

15 A. And we were unable from hundreds of yards away  
16 looking at a barn to tell you what kind of chicken was in  
17 there or turkey.

18 Q. Is it fair to say, then, that if one of those  
19 poultry types were circled, that the investigators weren't  
20 trained on how to make the distinction?

21 A. We were not trained to make the distinction.

22 Q. Down below that, there's a category called  
23 identifying information. Do you see that?

24 A. Yes.

25 Q. And you were looking for signs and addresses?



STEVE STEELE

April 7, 2009

97

1 A. Yes.

2 Q. And you were looking for individual names;  
3 correct?

4 A. No.

5 Q. Is that the -- well, a spot to put the grower's  
6 name?

7 A. In front of poultry buildings or poultry setups,  
8 there's usually a sign outside. It looks like a real  
9 estate sign and it will say what company it is and  
10 sometimes they have their own name or a name they made up  
11 of their farm. We would record that in that position.

12 Q. That's what that was for?

13 A. Yes.

14 Q. And the integrator name would be recorded if it  
15 was on the sign?

16 A. Yes.

17 Q. What's an integrator?

18 A. It's one of the companies, like Peterson or  
19 Simmons or Tyson or Cargill.

20 Q. One of the defendants in this case?

21 A. Yes.

22 Q. Is that what you understood the integrator to be?

23 A. Cal-Maine. We saw signs that were for other types  
24 of animals.

25 Q. What types of animals?

STEVE STEELE

April 7, 2009

98

1           A. Hogs, that they have -- hog farms and they have  
2 the same kind of signs.

3           Q. Did you drive by a lot of hog farms in the course  
4 of your work?

5           A. Not so much.

6           Q. How about dairy farm?

7           A. Lots of dairy farms.

8           Q. How about ranches with cattle?

9           A. Ranches with cattle, yes.

10          Q. Are there a lot of those in the IRW from your  
11 observation?

12          A. Yes.

13          Q. Are there a lot of dairy farms in the IRW from  
14 your observation?

15          A. Appears to be, yes.

16          Q. How about properties with horses?

17          A. Yes.

18          Q. A lot of horses in the IRW from your observations?

19          A. I don't know what you say a lot is, but I would  
20 see horses almost every trip.

21          Q. Were you asked in the course of the work that you  
22 and the investigators did to in any way quantify or  
23 document your observations of cattle?

24          A. The only time we did this is when a poultry truck  
25 or I'd say poultry truck, a litter truck spreading on a

STEVE STEELE

April 7, 2009

99

1 dairy farm or spreading on a cattle operation or a hay  
2 operation, we would try to document that.

3 Q. If you could tell what it was?

4 A. Yes.

5 Q. You couldn't always tell what the -- what the land  
6 use was of these properties you were looking at?

7 A. Sometimes the cattle were in the field at the same  
8 time they were spreading.

9 Q. In that case you could?

10 A. We would say that there's obviously a cattle  
11 operation here.

12 Q. Other than that, did you independently when you  
13 assigned the task to identify the locations where cattle  
14 operations were occurring in the IRW?

15 A. No, sir.

16 Q. It was just incidental to the poultry work that  
17 you were doing; correct?

18 A. Yes, sir.

19 Q. Were you asked to identify where horse properties  
20 were located in the IRW?

21 A. No, sir.

22 Q. Back to the form on the first page of Exhibit 7.  
23 It has a statement, could be observed from public access,  
24 yes or no. Do you see that?

25 A. I'm looking. Where is it? Where do you see that?

STEVE STEELE

April 7, 2009

100

1 Q. It's just below integrator name where we were  
2 looking.

3 A. Oh, yes.

4 Q. Was that entry -- did you consistently pay  
5 attention to completing that entry?

6 A. You mean each one of these little check mark  
7 places on here?

8 Q. Yeah, actually that's a better question. Did you  
9 consistently pay attention to completing an entry for every  
10 question and every box that's called for in these forms?

11 A. We tried to. In some instances, we just had to  
12 say unknown if we didn't know.

13 Q. And if I represent to you that there are number of  
14 forms where there are a lot of blanks, can you give me an  
15 explanation other than that it couldn't be observed?

16 MS. WEAVER: Object to the form.

17 Go ahead.

18 A. That would be the only reason, I would say. Could  
19 not be observed or somebody made an error and didn't fill  
20 out the form correctly.

21 Q. (BY MR. WALKER) Did you have any process of  
22 quality assurance or quality control to verify that these  
23 forms were being completed correctly?

24 A. I looked over the forms before I turned them in to  
25 Dr. Fisher to try to ascertain if everything made sense and

STEVE STEELE

April 7, 2009

101

1 was written well enough that it could be read and I didn't  
2 have any problems with the work product.

3 Q. Now, you would conclude your work commonly at  
4 about 9 o'clock or so in the evening?

5 A. Or later.

6 Q. Or later. That's when you'd get back from being  
7 on the road; correct?

8 A. Right.

9 Q. And is it -- would you reunite with your other  
10 teams out in the field or back here in Tulsa?

11 A. Well, every -- everybody that I worked with in  
12 this process, a police supervisor who grades out reports on  
13 a daily basis was in each car and it had to pass that  
14 muster before it got -- got to me.

15 Q. And I guess I'm just wondering, where did -- where  
16 did you take the time to review all the forms that all the  
17 investigators on your team were providing to you?

18 A. Well, that's why we'd try -- I'd try to pick them  
19 up in Locust Grove and some of them I'd read on the way  
20 back to Tulsa, go through and make sure they're all legible  
21 and things like that.

22 Q. How many forms would you get in a typical day?

23 A. With the ground truth thing, a lot, but there was  
24 less verbiage on that, just it was more location. There  
25 was more verbiage on the third form that you had in this

STEVE STEELE

April 7, 2009

102

1 stack where you had to read quite a bit.

2 Q. Now, on the ground truthing forms, you didn't have  
3 any means of checking the correctness of the information?

4 A. No, you could not. I could only check what was  
5 written on the form.

6 Q. You couldn't check it against the place where the  
7 observation was made; right?

8 A. No. But we did have aerial maps with -- and forms  
9 that told us where the lat and longs were. And you'd try  
10 to match these with photographs and to my knowledge, we did  
11 fine.

12 Q. But if somebody, for example, on the ground  
13 truthing work said that a barn was in poor condition, you  
14 didn't have any opportunity or way to go back and see if  
15 you agreed with that assessment; correct?

16 A. No, sir.

17 Q. What are the criteria that you used for  
18 determining this set of questions on the first page of  
19 Exhibit 7 regarding the physical condition of the structure  
20 being good, fair or poor?

21 A. Well, it was just what you would see or observe.  
22 Some of these buildings are in various stages of  
23 dilapidation or some are used for hay storage, some are  
24 used for cattle industry and they're not used for poultry  
25 anymore. I've seen antique cars stored in them. I've seen

STEVE STEELE

April 7, 2009

103

1 people living in them, converting them into housing. So if  
2 it didn't look like it had silos and propane tanks. And a  
3 lot of times when it was cooler weather like today, if they  
4 had side curtains they're sealed up pretty tight so the  
5 cold weather doesn't affect the animals. You know, just  
6 use all of those things to make your best guess that it  
7 appears to be occupied by chickens.

8 Q. And -- and -- and that's a fair observation, but  
9 my question was, what is the difference between a good  
10 structure and a fair structure or a poor structure? How  
11 did you make those determinations?

12 A. Just by the physical appearance of it, if it  
13 looked good or not and looked like it was maintained.

14 Q. From a --

15 A. Subjective --

16 Q. Subjectively, from a distance whatever that  
17 particular investigator filling out the form felt was  
18 appropriate?

19 A. Right.

20 Q. Did you have any training about any criteria that  
21 were to be used for that?

22 A. No, sir.

23 Q. There's a question raised, yes or no, what is that  
24 asking?

25 A. If it was gone.

STEVE STEELE

April 7, 2009

104

1 Q. And then overall you were to make a designation, a  
2 conclusion that the facility was active, inactive,  
3 abandoned or unknown; correct?

4 A. True.

5 Q. And for the ground truthing work, that was a  
6 substantial part of what the task was about; right?

7 A. Yes, sir.

8 Q. And the physical plant components, those  
9 categories on the right-hand side of the middle of the form  
10 that say propane tanks, feed silos, ventilation fans,  
11 covered litter, cake storage, side curtains and  
12 incinerator, those were also being evaluated to determine  
13 whether the farm was active or not?

14 A. It was just checked off if they were present, yes.

15 Q. But for what purpose is my question.

16 A. Well, the purpose, in my opinion, was if it was  
17 still being used for agriculture purposes, it was most  
18 likely chicken or turkey.

19 Q. If it was active or not?

20 A. Yes.

21 Q. And then you have additional entries requested for  
22 observed activity below that. Do you see that?

23 A. Yes, sir.

24 Q. And is it your understanding that that was also  
25 for the purpose -- those observations were also for the



STEVE STEELE

April 7, 2009

105

1 purpose of determining whether the operation was active or  
2 not?

3 A. Yes, sir.

4 Q. And is that also the case for the other category  
5 that is listed there?

6 A. Yes, sir.

7 Q. Can you tell me what stacked used litter/cake  
8 means on this form?

9 A. On poultry farms, they -- most poultry farms that  
10 I've observed, have a place where they store what they call  
11 cake, which is the top layer of chicken waste that they  
12 store in a place until they're ready to get rid of it. I  
13 believe that's what that means.

14 Q. Can you tell me what stacked new litter means on  
15 this form?

16 A. In some instances, we would see litter on the  
17 ground in a stack where you have guys cleaning out barns  
18 with bobcats or whatever and bringing it outside. And they  
19 would load it on a conveyer to put it on a big truck and  
20 send it far, far away or a little truck to be spread some  
21 place in the general vicinity. They would clean out the  
22 barns faster than they could haul it away. And if we would  
23 see that, what we thought was suspected litter, we would  
24 document that at that point.

25 Q. Okay. So for some relatively short period of time

STEVE STEELE

April 7, 2009

106

1 until they could get the truck loaded up, the trucks that  
2 were taking it away, if you saw that litter, you'd call  
3 that stacked new litter?

4 A. Yes.

5 Q. Do you know what bedding material is?

6 A. Yes. It's shavings or rice hulls.

7 Q. Okay. Were there any instances where the  
8 investigators attributed bedding as stacked new litter?

9 A. I don't think so, not -- not that I know of. I --  
10 I can tell the difference. One's clean and lighter  
11 colored.

12 Q. Would you agree that the term new litter can be  
13 ambiguous as to whether you're talking about bedding or  
14 something that's come out of a house?

15 MS. WEAVER: Object to form.

16 A. Stacking litter. I don't know.

17 Q. (BY MR. WALKER) I mean, the question --

18 A. Ask the question.

19 Q. Well, really the question is what -- what's new  
20 about it, according to your definition?

21 A. Something that's just been taken -- it's really --  
22 new is a bad word. Something that's just been taken out of  
23 the -- out of the barn and waiting to be distributed  
24 someplace else.

25 Q. If new is a bad word -- but that's the word that's

STEVE STEELE

April 7, 2009

107

1 on the form; right?

2 A. I didn't design the form, sir.

3 Q. I just asked you, is that the word that's on the  
4 form?

5 A. Yes, sir.

6 Q. If you turn to the second page, I think you've  
7 basically covered it, it has what appeared to me to be the  
8 same kind of categories relevant to whether the operation  
9 is active or not. Would you agree with that?

10 A. Yes, sir.

11 (Exhibit No. 8 was marked.)

12 Q. The court reporter has marked Exhibit 8 and I just  
13 want to ask you if you've ever seen that document before  
14 today.

15 A. No, sir, I've never seen this before.

16 (Exhibit No. 9 was marked.)

17 Q. The court reporter has marked Exhibit 9. Can you  
18 identify that document for me?

19 A. This was an e-mail that I sent to Rick Garren.

20 Q. Okay. When did you send the e-mail?

21 A. April 6th, '05.

22 Q. You sent it to Mr. Fisher as well?

23 A. I CC'd Mr. Fisher, yes, sir.

24 Q. The first line indicates that you're out in the  
25 area. I take it is that the IRW?

STEVE STEELE

April 7, 2009

108

1 A. Yes, sir.

2 Q. And you were out there Friday, Monday and Tuesday  
3 to make observations of land application; correct?

4 A. Yes, sir.

5 Q. And you saw that occurring once?

6 A. That was the very first time.

7 Q. The very first time you saw land application?

8 A. Yes, sir.

9 Q. And you reported that it was outside the target  
10 area; correct?

11 A. Yes, sir.

12 Q. Does that mean it was outside the IRW?

13 A. Yes, sir.

14 Q. Where is the IRW?

15 A. I can show you on a map. I can't describe it. It  
16 takes in a good chunk of Arkansas and Oklahoma from up near  
17 Colcord all the way down to past Stillwell and equal side  
18 on the other side of -- into Arkansas.

19 Q. How did you come to learn where -- do you know  
20 where the boundaries of the IRW are?

21 A. Not without a map.

22 Q. You -- you can tell if it's on a map; correct?

23 A. In this instance, we saw this, same time -- in  
24 that same time period I got a phone call from either Bert  
25 Fisher or Larry Hight and we said we saw this. And they

STEVE STEELE

April 7, 2009

109

1       said, well, what are your coordinates? We gave them the  
2       lat and longs and they said, well, you're just a couple  
3       hundred yards out of the IRW.

4             Q. Did you do anything to verify when you were making  
5       observations in the course of your work that the  
6       observation was being made from within the IRW?

7             A. No, we did not, but we -- it would have been  
8       caught with the lat and longs because they plotted all of  
9       these after we turned them in.

10            Q. Okay. Whatever -- whatever judgments were being  
11       made as to whether your observation was inside or the  
12       outside the IRW was being made by --

13            A. The individual.

14            Q. -- Mr. Fisher or others?

15            A. Right. And we did see things start in the IRW and  
16       go outside the IRW.

17            Q. What kind of things?

18            A. Collection of litter, that would -- obviously  
19       someone was shipping to another part of the state or  
20       country and leave the IRW.

21            Q. And would you follow those vehicles carrying  
22       litter to their ultimate destination outside the IRW?

23            A. Not to their ultimate destinations, but sometimes  
24       we'd follow them for 30, 40 miles and we'd go well,  
25       obviously they're going away.

STEVE STEELE

April 7, 2009

110

1 Q. So that happens sometimes that you'd follow a  
2 truck for 30 or 40 miles and then just stop following them?

3 A. Well, yeah. We would just turn back and go back  
4 to the IRW.

5 Q. Was -- was it common for you to follow vehicles  
6 that left the boundary of the IRW?

7 A. Not necessarily.

8 MS. WEAVER: Object to form.

9 Go ahead.

10 A. No, not necessarily. Most of the trucks that we  
11 saw that we documented what was going on were the smaller  
12 trucks. The trucks that left the IRW were the bigger  
13 trucks.

14 Q. (BY MR. WALKER) You saw some of those bigger  
15 trucks; correct?

16 A. Yes, sir.

17 Q. Are you familiar with a company called BMP, Inc.?

18 A. Yes.

19 Q. Okay. What is BMP, Inc.?

20 A. It's a company that has tractor/trailer rigs with  
21 a conveyer bottom on the trailer that's used to easily  
22 unload whatever the product is inside. And they specialize  
23 in taking chicken waste or litter outside the Watershed.

24 Q. Did you see those trucks operating?

25 A. Yes, sir.

STEVE STEELE

April 7, 2009

111

1 Q. Can you see other trucks other than BMP's trucks  
2 leaving the IRW with litter?

3 A. Maybe. They're not all marked.

4 Q. How do you know that -- if it's a BMP's truck?

5 A. We saw their trucks all the time. We knew where  
6 they're headquartered.

7 Q. And -- so if you knew where the BMP's trucks were  
8 and what they looked like, I guess I'm wondering why can't  
9 -- why can't you determine the question of whether other  
10 trucks were hauling litter out of the IRW?

11 A. I don't know if they were or not. I know if we  
12 followed some BMP trucks and some other trucks that didn't  
13 have markings on them that were taking things out of the  
14 Watershed and had the same type of soft bottom conveyer  
15 system. And we also saw trucks that were tractor/trailer  
16 rigs with dump beds on the trailer part, which were not the  
17 company of Best Practices or --

18 Q. BMP?

19 A. Yeah, they weren't BMP's.

20 Q. There was a third type of truck you also saw  
21 leaving the IRW?

22 A. Yes.

23 Q. So you saw trucks that you knew to be BMP's trucks  
24 leaving the IRW; right?

25 A. Yes.

STEVE STEELE

April 7, 2009

112

1 Q. You saw trucks that didn't have any markings  
2 indicating they were BMP's trucks that were leaving the  
3 IRW; right?

4 A. Right.

5 Q. And then you saw a third kind of dump truck  
6 configuration that was used that was hauling litter out of  
7 the IRW; right?

8 A. Right.

9 Q. Did you endeavor to quantify how much litter was  
10 going out of the IRW based on what you-all were able to  
11 observe?

12 A. No, sir.

13 Q. It was not part of your assignment?

14 A. No, sir.

15 Q. The last sentence of the first paragraph in  
16 Exhibit 9 says, it would be helpful if the AG's office  
17 created a tip line about litter dumping. What are you  
18 talking about there?

19 A. Well, when we first started off and this is  
20 very -- this is one of our first few trips over there in  
21 April '05, it was -- we're city guys. We didn't know  
22 exactly what to look for for a while. We had to educate  
23 ourselves. And we would get calls from Lou Bullock or  
24 somebody that says we've got somebody on the phone calling  
25 us saying there's litter being spread someplace and we'd



STEVE STEELE

April 7, 2009

113

1 try to go down and find it. Sometimes we could, sometimes  
2 we couldn't. And if they were gonna do that, I thought  
3 they should -- you know, I mean, in my police experience  
4 with tip lines, they should have a central place for that  
5 to happen so I don't hear about it three or four days after  
6 I've already been there.

7 Q. Did they ever create a tip line for you?

8 A. No, sir.

9 Q. You used the term litter dumping. Where did you  
10 get that term?

11 A. I have probably made that up myself.

12 Q. What is litter dumping?

13 A. When somebody dumps litter on the ground.

14 Q. Is that the same thing as land application?

15 A. No, sir.

16 Q. What's -- what -- so dumping litter on the ground,  
17 did you ever observe litter being dumped on the ground?

18 A. Yes, sir.

19 Q. And where were you?

20 A. Arkansas.

21 Q. What -- what -- what location, if you can recall?

22 A. Close to Prairie Grove north by -- there's a lake  
23 over there called Kidd Lake and I can't remember if it's  
24 Bob Kidd or Bud Kidd, in that general vicinity.

25 Q. Were you able to determine who was doing the

STEVE STEELE

April 7, 2009

114

1 litter dumping?

2 A. No.

3 Q. How much litter was there?

4 A. It was stacked in wind rows. You know, I can  
5 estimate the height to maybe 8 feet tall, 20 yards long.

6 Q. Did you determine that it had been abandoned  
7 somehow?

8 A. I think it was being stored in the wide open for  
9 later use.

10 Q. So you called it litter dumping, but it may have  
11 been being stored for later use?

12 A. Yeah, but it was dumped from a dump truck.

13 Q. I see.

14 A. It's still there last time I was there.

15 Q. Okay. So -- but by using the term dumping, you  
16 mean it was emptied out of a truck and not covered; is that  
17 what you're --

18 A. Right.

19 Q. So you're not trying to say by using the term  
20 dumped that it's been abandoned?

21 A. No, sir.

22 Q. You're not trying to indicate that somebody's not  
23 planning on using it for fertilizer; correct?

24 A. Oh, no, sir.

25 Q. So if -- did other investigators use the term

STEVE STEELE

April 7, 2009

115

1 dumping in their reports?

2 A. I don't know if they used the words dumping or  
3 stacking excess litter in an open field. Different  
4 terminology for different people. I said I saw a dump  
5 truck dump this stuff out in the field and leave.

6 Q. And in that Kidd Lake situation, you saw the dump  
7 truck --

8 A. Yes.

9 Q. -- activity?

10 A. Yes.

11 Q. Okay. Was that in the IRW?

12 A. Yes.

13 Q. And did you document it in one of your forms?

14 A. Yes, sir.

15 Q. Other than that instance, did you see any other  
16 activities of what you would call dumping?

17 A. Yes, but I can't tell you where. I mean, I've  
18 seen it before. And it's open storage. But I can tell you  
19 outside the IRW where I have a home at Grand Lake, there's  
20 a farmer doing that 24/7 12 months of the year.

21 Q. Open storage?

22 A. Yes.

23 Q. In the case of the Kidd Lake situation or in any  
24 other case in which you might have observed litter being  
25 stored on the ground uncovered, all right, which is what

STEVE STEELE

April 7, 2009

116

1       you call dumping; right?

2           A. Uh-huh.

3           Q. Yes?

4           A. Yeah. I don't want to make this more complicated  
5       than what it is, but usually we would see trucks, small  
6       trucks, they would take it and apply it to the ground.

7           Q. They'd spread it.

8           A. For fertilizer purposes. These trucks, they don't  
9       spread from the ground. They have to take it and put it  
10      someplace and what happens then we wouldn't hardly find  
11      out.

12          Q. So these are trucks that aren't spreaders; right?

13          A. Right.

14          Q. So they're hauling litter and they get to their  
15      destination and they've got to get it out of the truck  
16      somehow; right?

17          A. True.

18          Q. And -- so they put it on the ground to empty the  
19      truck; right?

20          A. Right.

21          Q. And that's what you're calling dumping; right?

22          A. Yes, sir.

23          Q. And then you don't stick around to see what the  
24      person does when they come by and scoop it up to land apply  
25      it or do whatever it is that they're planning to do with

STEVE STEELE

April 7, 2009

117

1 it; right?

2 A. If and ever, yes.

3 Q. The next paragraph, second sentence you stated, we  
4 found incidents of what I would call circumstantial  
5 evidence of over-fertilization in areas that don't require  
6 fertilization. Do you see that?

7 A. No.

8 Q. It's the second sentence of the second paragraph  
9 of Exhibit 9.

10 A. Okay.

11 Q. Do you remember writing that statement?

12 A. Yes.

13 Q. Explain for me, given the background you've  
14 testified to today, how you're qualified to make a  
15 statement that a field has been over-fertilized.

16 A. This has -- I cannot testify to that, because I've  
17 not had the training.

18 Q. You don't know?

19 A. No, I don't.

20 Q. In the last paragraph -- or the last sentence of  
21 that paragraph says, in any event, I think we can say  
22 spreading litter on the ground and over-fertilizing is a  
23 common practice in the poultry operations. And you don't  
24 have the background to make that statement either, do you?

25 A. I don't have it -- no, I don't have the

STEVE STEELE

April 7, 2009

118

1 agricultural experience to say that.

2 Q. The next sentence says, today due to wet weather,  
3 I suspended scouting observation. And that's what you  
4 talked about earlier, you didn't do those kinds of  
5 activities if the weather was wet.

6 A. And the people that handle the poultry litter  
7 don't hardly work in that weather, either.

8 Q. And they don't work in that weather because they  
9 can't drive their trucks in the field; right?

10 A. Well, the litter will -- they can't spread it  
11 because it gets wet.

12 Q. Did you ever talk to a grower to ask them why they  
13 don't spread litter in the rain?

14 MS. WEAVER: Object to form.

15 A. No, sir.

16 Q. (BY MR. WALKER) I asked, did you ever talk to a  
17 grower --

18 A. No, sir.

19 Q. -- and ask them why don't you spread litter in the  
20 rain?

21 MS. WEAVER: Same objection.

22 Go ahead.

23 A. No.

24 Q. (BY MR. WALKER) Have you ever read a nutrient  
25 management plan?

STEVE STEELE

April 7, 2009

119

1 A. No, sir.

2 Q. Did you observe any growers spreading litter in  
3 the rain during the course of your work in this case?

4 A. No, sir.

5 Q. Have you ever read an animal waste management  
6 plan?

7 A. No, sir.

8 Q. Do you know what one is?

9 A. No, sir.

10 Q. There are times in this document in particular,  
11 the fifth paragraph down, second sentence, you make a  
12 notation about seeing tire tracks as evidence of land  
13 application. Do you see that?

14 A. Yes, sir.

15 Q. And I'll represent to you that there are  
16 inspector's notes that make that same observation.

17 A. Yes, sir.

18 Q. What is it about tire tracks that tell you land  
19 application has occurred?

20 A. The pattern of the tire tracks going back and  
21 forth in the field, that something has been applicated  
22 there, either chicken litter or other fertilizer.

23 Q. It could be any fertilizer; right?

24 A. Yes, sir.

25 Q. And it doesn't necessarily even have to be

STEVE STEELE

April 7, 2009

120

1 fertilizer for a truck to drive back and forth on a field,  
2 does it?

3 A. Of course not. But in our observations, we would  
4 see trucks do that -- almost like mowing a lawn, go turn  
5 around and make straight lines.

6 Q. And seeing the trucks doing the application is  
7 what you're saying?

8 A. Yes.

9 Q. Is it fair to say if you saw tire tracks in a  
10 field where you didn't see a truck driving around, you  
11 don't know what caused those tracks?

12 A. With just that information, no.

13 Q. The -- the document as I received it was -- was  
14 highlighted already with the highlighted statement, but I  
15 need some help from the Rangers or our other informants.  
16 Do you see that?

17 A. Yes.

18 Q. Okay. What are you talking about there?

19 A. That same information that was made available from  
20 Rick Garren about Mr. Fite and his Rangers could tell us  
21 where this activity was happening and we never got any  
22 information.

23 Q. All right. So you were hoping that Mr. Fite and  
24 his Rangers who were out there as part of their Scenic  
25 River responsibilities might see activities that they could



STEVE STEELE

April 7, 2009

121

1 report to you; correct?

2 A. Right.

3 Q. And did they ever assume that role for you?

4 A. No, sir.

5 Q. The second-to-the-last paragraph that starts,  
6 sorry -- It says, Sorry about the miscommunication about  
7 the GPS coordinate. I promise to wear -- I think you're  
8 trying to say, my glasses when reading someone else's  
9 notes?

10 A. Yes.

11 Q. What is that about?

12 A. That was a joke. But I had told them, this same  
13 part in the first paragraph where we gave them a lat and  
14 long over the telephone to see where we were. And the  
15 first numbers I gave them showed us probably 300 miles off.  
16 So we had to put on the glasses and read it again and I  
17 apologized for such.

18 Q. Is it fair to say that if you've -- in your  
19 experience, make one error in using those numbers, that  
20 you'll get the wrong location?

21 A. Oh, yes.

22 Q. And that's what happened in that case?

23 A. Oh, yes.

24 Q. And you missed by 300 miles?

25 A. Yeah, probably, if not farther.

STEVE STEELE

April 7, 2009

122

1 (Exhibit No. 12 was marked.)

2 Q. Before we move on to the next exhibit, I meant to  
3 ask you, you've testified earlier that the -- something to  
4 the effect of the height of the litter application season  
5 is April through June.

6 A. That's what we believe.

7 Q. And where did you form that belief or how did you  
8 form that belief?

9 A. What I was told by our attorneys and through -- I  
10 don't know where they came up with their information, but  
11 before the foliage really gets going, that's when you need  
12 the litter on the ground or any fertilizer on the ground.  
13 You don't put it out there in October so the snow washes it  
14 away. It won't do you any good. You need to put it out  
15 there in spring, early spring so it can take hold and the  
16 nutrients go to the plants.

17 Q. Okay. But as far as some comparative assessment  
18 of when land application is more likely to occur than not,  
19 you gained that information from others not based on your  
20 own observations; right?

21 A. No, I have not gone in other times of the year to  
22 the Watershed to look for these things.

23 Q. The court reporter has marked Exhibit 12 and ask  
24 if you can identify that.

25 A. Yes. It's an e-mail that I wrote Larry Hight in

STEVE STEELE

April 7, 2009

123

1 June of '05.

2 Q. Who's Larry Hight?

3 A. Larry Hight is the No. 2 man at Lithochimiea.

4 He's one of the owners.

5 Q. The second paragraph talks about a trip you made  
6 to Scranton, Arkansas. Do you see that?

7 A. Yes, sir.

8 Q. What was the purpose of that trip?

9 A. Well, in the Watershed in Arkansas, we received a  
10 call that someone had disposed of a whole bunch of dead  
11 chickens under a bridge over there by this Lake Dardanelle  
12 or the river that makes it up. I don't -- I'm not real  
13 familiar with that piece of water. We went over and took a  
14 look and found nothing.

15 Q. Do you believe that that location you were looking  
16 at was in the IRW?

17 A. Oh, I know it was not.

18 Q. Oh, it was not in the IRW?

19 A. Yes.

20 Q. Okay. Why did you go outside the IRW to look for  
21 that activity?

22 A. Because the people who are paying me asked me to  
23 go do it and take a look.

24 Q. And you didn't find anything, did you?

25 A. No, sir.

STEVE STEELE

April 7, 2009

124

1 Q. The people who sent you to Scranton never told you  
2 why they wanted you other than to look for the dumping  
3 activity?

4 A. That was only instruction I had.

5 Q. Was that the only purpose that you went to the  
6 Scranton, Arkansas area?

7 A. Unless I missed something, that's all I remember.

8 Q. Well, you made some other observations here that  
9 appear to have happened incidental to that. I guess I'm  
10 just wondering, were you also intending to make the other  
11 observations in the course of this assignment?

12 A. No, sir. The main assignment was to look for dead  
13 chickens under a bridge.

14 (Exhibit No. 13 was marked.)

15 Q. The court reporter has marked Exhibit 13 which is  
16 an e-mail from Larry Hight to Bert Fisher, November 21,  
17 2005. I'd ask that -- first of all, have you ever seen  
18 this e-mail before?

19 A. No, sir.

20 Q. Okay. Would you take a moment to read it, please.

21 A. Okay. I've never -- I don't understand it.

22 Q. I guess the point is maybe it was just for a date  
23 of point of reference. You testified earlier that you  
24 conducted interviews as part of -- as one assignment in  
25 this case; right?

STEVE STEELE

April 7, 2009

125

1 A. Yes.

2 Q. You interviewed witnesses regarding diseases?

3 A. Yes. And also I had interviewed people who had  
4 made complaints about -- to the Department of Environmental  
5 Quality about situations similar to litter being in the  
6 wrong place or something. And I think Rick had contact --  
7 they had copies of the complaints to see if their complaint  
8 had been taken care of.

9 Q. When you were interviewing the people who had  
10 diseases or ailments, did you have a script for those?

11 A. Yes.

12 Q. When you interviewed people who may have made a  
13 complaint to the Department of Environmental Quality, did  
14 you have a script for that?

15 A. No, sir.

16 Q. During what period of time were you conducting the  
17 interviews of the people who had ailments?

18 A. It was in the wintertime before Christmas. And  
19 I -- it looks like it would probably match up pretty close  
20 to this date on this e-mail, but I've never seen this  
21 e-mail.

22 Q. The wintertime of 2005?

23 A. I think so.

24 Q. Late 2005?

25 A. Yes.

STEVE STEELE

April 7, 2009

126

1 Q. And when you did your investigations and  
2 interviews of people who may have complained to the  
3 Department of Environmental Quality, when did you do those?

4 A. It seems like it was in the same time frame, maybe  
5 a little bit later after the first of the year. It may  
6 have been long time ago.

7 Q. Did you tape record those conversations?

8 A. No.

9 Q. How did you document those conversations?

10 A. I wrote down what I was told by --

11 Q. By the witness?

12 A. -- by the witness or in one instance a couple of  
13 times I could only make telephone contact with them, see if  
14 their grievances had been satisfied, if the problems still  
15 existed, those type of things.

16 Q. In each one of these cases, these were people that  
17 had already contacted the State?

18 A. Yes.

19 Q. And was it your understanding that the State was  
20 taking responsibility to address whatever the situation  
21 was?

22 A. Yes, sir.

23 MR. WALKER: We're running short on tape.

24 This will be a good time to take a break.

25 (Break was taken from 1:58 p.m. to 2:11 p.m.)

STEVE STEELE

April 7, 2009

127

1 THE VIDEOGRAPHER: Okay. We're back.

2 (Exhibit No. 15 was marked.)

3 Q. (BY MR. WALKER) Mr. Steele, the court reporter has  
4 marked Exhibit 15, which is an e-mail from Brenda Bradshaw  
5 to Bert Fisher and Larry Hight, subject Steve Steele  
6 executive summary Volume 1. Have you ever seen a copy of  
7 that e-mail?

8 A. No.

9 Q. Can you tell me who Brenda Bradshaw is?

10 A. I've never met her. She was a transcriber who  
11 transcribed tapes into typewritten material for  
12 Lithochimiea.

13 Q. Did you provide her with material to transcribe?

14 A. I provided Lithochimiea with things to transcribe  
15 and they sent them out to her.

16 Q. I thought you testified earlier that you didn't do  
17 any tape recordings. I guess I'm confused.

18 A. Those -- I tape recorded those interviews with the  
19 ill people -- the sick people.

20 Q. The sick people?

21 A. Right.

22 Q. Oh, okay. Those were tape recorded but that's all  
23 you tape recorded; correct?

24 A. That's all I remember, yeah.

25 Q. Did you prepare any executive summaries --

STEVE STEELE

April 7, 2009

128

1 A. Okay. Yes.

2 Q. -- of your work?

3 A. Let me back up. When I told you I did some  
4 background investigations, the executive summaries myself  
5 and Mike Huff both did those and we would tape record those  
6 and send them into Lithochimiea. They'd send them to  
7 Ms. Bradshaw and they'd get the finished product.

8 Q. Those were background summaries -- background  
9 investigations you were doing of the defendant's experts?

10 A. Yes.

11 Q. Did you do background investigations of anybody  
12 other than defendant's experts?

13 A. Some employees at -- at the higher level and we  
14 didn't really -- I won't say we investigated. We did  
15 computer searches. Lexus Nexus, Usus, things of this  
16 nature.

17 Q. List for me as best you can the name of every  
18 person that you did a background investigation on.

19 A. In the type -- in the investigation type that I  
20 described, I did one on Archie Schaeffer. I think we --  
21 which kind of overlapped into Don and John Tyson. We did  
22 Lexus Nexus searches on Todd Simmons and his father. I  
23 can't remember his name. Those are the only names I can  
24 recall but there were more.

25 Q. Do you recall doing a background investigation of



STEVE STEELE

April 7, 2009

129

1 anybody with Cargill?

2 A. No, sir.

3 Q. Could you say that you did not do any  
4 investigation?

5 A. As far as I did not do any investigation on  
6 anybody that had any association with Cargill.

7 Q. Did you do any investigation of Tim Allsup?

8 A. No.

9 Q. Steve Willardson?

10 A. No, sir.

11 Q. Tim Moffitt?

12 A. No, sir.

13 Q. How many background -- how many people total did  
14 you do background investigations on?

15 A. I would say at least a dozen. And I didn't do  
16 them all personally, some of them I farmed out to other  
17 people.

18 Q. And did you say that Huff was one of those people?

19 A. Yes, sir.

20 Q. Who else?

21 A. Maybe just me and Huff.

22 Q. And just to be clear, did Mr. Huff do any  
23 background investigations of any Cargill people?

24 A. No, sir.

25 Q. Who asked you to do these background

STEVE STEELE

April 7, 2009

130

1 investigations?

2 A. I went to lunch a couple years ago with Bert  
3 Fisher and he wanted me to talk to Randy Miller. Randy  
4 Miller was the one that requested this.

5 Q. And who's Randy Miller?

6 A. He is Miller Law. He was one of the plaintiffs'  
7 attorneys but left the lawsuit a couple years ago.

8 Q. After Ms. Bradshaw would transcribe information  
9 that you had audio recorded, would you be given a copy to  
10 review?

11 A. No.

12 Q. So whenever you made an audiotape --

13 A. On these --

14 Q. -- I'm sorry. Let me finish the question.  
15 Whenever you made the audiotape, you'd give it over to  
16 Lithochimiea?

17 A. I'm in error. I made an error.

18 Q. Maybe you can clarify.

19 A. Okay. We did -- I did get the material back but  
20 not for clarification, just there would be an index and I'd  
21 put it all together saying this page you can index back to  
22 page so and so in Lexus Nexus search, that type of thing.

23 Q. So you matched up the transcription text with the  
24 backup material --

25 A. Yes, sir.

STEVE STEELE

April 7, 2009

131

1 Q. -- from your investigation?

2 A. Yes, sir. I usually did that verbally as I went  
3 along with the executive summary.

4 Q. And were you told by Mr. Fisher or anyone else why  
5 they wanted you to do these background investigations?

6 A. Mr. Miller told me that he had planned on doing  
7 depositions on these people and he would like to have some  
8 background information.

9 Q. I think I testified -- you testified earlier that  
10 in the course of doing that work you didn't run across  
11 anything unsavory with regard to any of these people;  
12 right?

13 A. No. Some interesting things, but nothing  
14 unsavory.

15 Q. In the course of documenting your work, we talked  
16 about the -- the media that you used, the forms and the  
17 cameras and the GPS and those sorts of things; right?

18 A. Yes, sir.

19 Q. Did you provide additional information to  
20 Mr. Fisher or anyone in -- in the course of your work that  
21 was not otherwise documented through oral communications?

22 A. I'm sure I did, but I can't remember what an  
23 instance would be.

24 Q. If you were out there making -- doing your  
25 surveillance work and you saw something of note, was it

STEVE STEELE

April 7, 2009

132

1 your custom and practice to document it in the record?

2 A. Yes, sir.

3 Q. So if you made some oral report of the event, it  
4 would substantially be embodied in the document itself;  
5 right?

6 A. Should have been.

7 Q. Can you think of any instances where it clearly  
8 was not?

9 A. I can't remember any. I'm not saying it didn't  
10 happen, because I had many phone conversations with him but  
11 I can't remember any instance.

12 Q. Fair to say that you understood the importance of  
13 documenting whatever it was that you saw in the course of  
14 doing your work?

15 A. Yes, sir.

16 Q. And in the course of your 33 years of police work,  
17 you appreciated how important it was to document the  
18 observations you made; correct?

19 A. Yes, sir.

20 Q. In the course of doing your work, have you ever  
21 had any discussions with any representatives of the  
22 Attorney General's office -- employees of the Attorney  
23 General's office, if you know?

24 A. One time, I believe I was on a conference call  
25 with several other people and there was a representative

STEVE STEELE

April 7, 2009

133

1 from the AG's office present at the other end of the line  
2 in one of the offices and that's the -- I've never met any  
3 personnel.

4 Q. Do you recall who that person was?

5 A. No.

6 Q. Have you ever spoken with Attorney General Drew  
7 Edmondson?

8 A. Yes.

9 Q. Have you spoken with him about this case?

10 A. No, sir.

11 Q. Has he ever told you anything about this case?

12 A. No, sir.

13 Q. Have you received any communication from  
14 Mr. Edmondson or his office about this case?

15 A. No, sir.

16 Q. Other than maybe that one person sitting on the  
17 phone call; right?

18 A. Yes, sir.

19 Q. Are there any documents that you or your  
20 investigators generated in this case that you chose not to  
21 provide to Mr. Fisher?

22 A. It would only be ones where there were gross  
23 misspellings or something was misnumbered and we would  
24 require it to be copied over. And the original would  
25 probably get thrown out.

STEVE STEELE

April 7, 2009

134

1 Q. Are you aware that Mr. Fisher issued an expert  
2 report in this case?

3 A. No.

4 Q. Did Mr. Fisher ever give you an opportunity to  
5 review any of his own writings in this case?

6 A. Never.

7 Q. Did he give you an opportunity to review and  
8 comment upon any maps or other kinds of documents in this  
9 case?

10 A. No.

11 (Exhibit No. 24 was marked.)

12 Q. Mr. Steele, the court reporter has marked Exhibit  
13 24. Have you ever seen this document?

14 A. Not that I know of. I've seen documents very  
15 similar to this, though.

16 Q. I'll represent to you that this is a copy of a map  
17 taken from Dr. Fisher's report. Do you believe you've ever  
18 reviewed this map?

19 A. No, sir.

20 Q. At the bottom of the map, it has a legend that  
21 indicates that in part it is based on investigator reports.  
22 Do you see that?

23 A. Yes.

24 Q. Did Dr. Fisher ever ask you or any of your  
25 investigators to verify the information that is depicted on

STEVE STEELE

April 7, 2009

135

1 this map?

2 A. No, sir.

3 Q. I think I asked you some general questions about  
4 your knowledge of -- of agriculture and farming and you --  
5 you don't have a background in those activities; right?

6 A. No, sir.

7 Q. All right. Is it fair to say that you don't have  
8 any specific knowledge of the working relationship between  
9 a poultry grower and an integrator?

10 A. No, sir.

11 Q. Don't have any knowledge of how those parties may  
12 contract?

13 A. No, sir.

14 Q. You don't have any knowledge of poultry care and  
15 husbandry practices?

16 A. No.

17 Q. Do you have any specific knowledge of the timing  
18 and frequency that growers clean out their barns and their  
19 houses?

20 A. Only what I've been told.

21 Q. Told by who?

22 A. Rick Garren or Bert fisher.

23 Q. And what is it that you were told about that?

24 A. That in the spring if they're gonna do a full  
25 clean-out -- a full clean-out was usually done in the

STEVE STEELE

April 7, 2009

136

1       spring, but sometimes they may go two years without a  
2       clean-out. I've also been told that the top layer  
3       sometimes come out and they're stored until later  
4       applied or taken away.

5           Q. Do you have any specific knowledge about mortality  
6       management practices?

7           A. No, sir.

8           Q. I'm talking about mortality of chickens and  
9       turkeys.

10          A. No. In poultry work, no, sir.

11          Q. I imagine you know something about people; right?

12          A. Yeah.

13          Q. Do you know anything about any differences between  
14       how chickens and turkeys are raised?

15          A. No, sir.

16          Q. Do you know anything about the differences between  
17       how chickens and turkey litter are managed?

18          A. No, sir.

19          Q. Do you know anything about the nutrient value of  
20       poultry litter?

21          A. No, sir.

22          Q. Do you know the difference between a one-stage,  
23       two-stage or three-stage poultry operation?

24          A. No, sir.

25          Q. Do you have any background or training in science?



STEVE STEELE

April 7, 2009

137

1 A. Yes.

2 Q. What kind of scientific training do you have?

3 A. Forensic science, fingerprints, DNA, body fluids  
4 left at a crime scene, that type of things. Tool mark  
5 evidence, bullets projectiles, shell casings, those type of  
6 science.

7 Q. Okay. Do you have any training in the  
8 environmental sciences?

9 A. No, sir.

10 Q. Any scientific knowledge about fate and transport  
11 of chemicals or bacteria?

12 A. Repeat that. I didn't understand the first word  
13 you said.

14 Q. Any scientific knowledge about the fate and  
15 transport of chemicals or bacteria in the environment?

16 A. All police officers in this state have to take  
17 certain training about Hazmat things being transported on  
18 heavy trucks, trains and aircraft, and beyond that, no.

19 Q. So what you know about transport of chemicals has  
20 to do with transport in vehicles?

21 A. Yes, sir.

22 Q. Any particular chemical knowledge about  
23 phosphates, phosphorous, heavy metals?

24 A. No, sir.

25 Q. How many farms -- or I'm sorry. How many

STEVE STEELE

April 7, 2009

138

1 structures in total was your investigation team tasked with  
2 ground truthing?

3 A. It's been three years ago since we finished that,  
4 I'm guessing it was around 25 -- 2700 buildings.

5 Q. And what -- what portion on a percentage basis  
6 would you estimate of that work did you personally observe?

7 A. A fourth -- a third to a fourth.

8 Q. Is it fair to say that you were the most active  
9 investigator among all of the investigators involved?

10 A. Myself and Rod Hummel, yes.

11 Q. Did the other investigators who you were  
12 supervising provide you with records of the amount of time  
13 that they spent so that they could be paid?

14 A. Yes, sir.

15 Q. And then would you in turn provide that  
16 information to Lithochimiea to get them paid?

17 A. Yes, sir.

18 Q. Did they issue checks directly to each  
19 investigator?

20 A. Yes.

21 Q. My understanding from your earlier testimony is  
22 that the locations that were selected for the ground truth  
23 work were given -- given to you on -- was it a daily basis  
24 or a weekly basis from Mr. Fisher?

25 A. It was Mr. Hight prepared these and hopefully we

STEVE STEELE

April 7, 2009

139

1 would get them on a weekly basis for our next sorte to the  
2 Watershed.

3 Q. When it comes -- came to the land application  
4 sites and the selection of those sites at the beginning of  
5 your work, is it fair to say that it was just kind of a  
6 hit-and-miss, whatever you saw as you were driving around?

7 A. Yes.

8 Q. You didn't have particular sites that you were  
9 directed to?

10 A. At the beginning -- no, we've never been directed  
11 to sites that I can remember by any of the attorneys or  
12 Bert Fisher. At first, we did as you said, just went over  
13 there and drove around looking. And then as we gained more  
14 experience, we found more areas where it was -- you'd see  
15 more of that type of activities than in others.

16 Q. How is it that you got better at identifying where  
17 to be at the right time?

18 A. By the number -- the biggest number of chicken  
19 houses in a smaller area, there's usually activity going  
20 on.

21 Q. So if you went to the more densely operated areas,  
22 you had a higher degree of chance that somebody would be  
23 doing clean-out work?

24 A. Densely populated small farms. The very big farms  
25 where, you know, it's like a full-blown, it looks like an

STEVE STEELE

April 7, 2009

140

1 army base of chicken buildings, you wouldn't see much  
2 there. They had their own systems of doing things. They  
3 don't use the small trucks to land applicate. They ship it  
4 out of the Watershed pretty much.

5 Q. So -- so you were looking -- you honed in on the  
6 small farmers?

7 A. The ones that use litter as fertilizer, that's the  
8 ones that -- or the ones -- or the truck drivers that --  
9 there are individuals in the Watershed that they make a  
10 living taking chicken waste or litter from barns and  
11 spreading it at somebody else's farm for money. And we  
12 would -- if we saw one of their trucks, we'd get on the  
13 telephone with each other and say we see old so and so down  
14 here at the Quick Trip -- or not Quick Trip but whatever  
15 the little convenience store. Anybody seen anything in  
16 this area kind, then we'd kind of watch him.

17 Q. But -- so you found particular areas that you were  
18 going to have more success by looking at certain types of  
19 farms that were the smaller operations?

20 A. Yes.

21 Q. And I think you testified earlier that you were  
22 also able to identify locations to go observe once you  
23 started getting aerial photo -- or aerial communications?

24 A. Yes.

25 Q. When did you start -- did you use aerial

STEVE STEELE

April 7, 2009

141

1 surveillance in 2005 at any time?

2 A. I don't remember. I don't know if we did or not.

3 Q. Were you using it in 2006?

4 A. Yes.

5 Q. And in 2007?

6 A. Quite a bit in 2007.

7 Q. Any in 2008?

8 A. No.

9 Q. When you were in the plane doing the aerial  
10 surveillance, were you taking pictures?

11 A. Sometimes.

12 Q. And did you give those pictures to Dr. Fisher?

13 A. Yes, sir.

14 Q. Were you making notes of your observations?

15 A. Not necessarily. When we were in the aircraft, we  
16 would look for the evidence of somebody spreading at that  
17 place and then we would call or radio a ground unit and  
18 send them to that area and they would make the  
19 documentation.

20 Q. So your primary task was to look for activities  
21 that the ground folks would want to see and to radio them  
22 to tell them where to go?

23 A. Correct.

24 Q. What was the basis or criteria you used, if any,  
25 for pairing up the teams that you assigned in this case?

STEVE STEELE

April 7, 2009

142

1           A. Really, the -- I preferred a supervisor in each  
2           car. And I wanted -- you know, it's a long day. If you  
3           start at 5:30 or 6:00 in the morning and don't get back  
4           until 9:00, you pretty much hope they're compatible folks  
5           that can sit in the front seat of a car together for 15  
6           hours without killing each other. And if they did what I  
7           told them, and most of these guys had already worked for me  
8           in the past in the police department, I knew their  
9           reputation, that's why I picked them.

10          Q. Did any of the people who worked at one time or  
11          another, the investigators who worked at one time or  
12          another, tell you they don't want to do this anymore?

13          A. When I had my mini revolution, they said I had to  
14          increase the pay or they're not gonna do it. And they were  
15          very diplomatic.

16          Q. So nobody dropped out?

17          A. No.

18          Q. In the course of your investigation, did you do  
19          anything to assess how any particular pieces of land had  
20          been used historically?

21          A. Not that I know of, no.

22          Q. Did you do any investigation to determine the  
23          ownership of any piece of property historically as opposed  
24          to currently?

25          A. No.

STEVE STEELE

April 7, 2009

143

1 Q. Did you do anything to investigate for any piece  
2 of property the history of commercial fertilizer used on  
3 the property?

4 A. No, sir.

5 Q. Did you do anything to investigate for any  
6 particular piece of property the history of land  
7 application of poultry litter?

8 A. No, sir.

9 Q. And I asked you a similar question but not the  
10 same question. Did you at any point in your investigation  
11 undertake to evaluate the history of cattle production on  
12 any lands in the IRW?

13 A. No.

14 Q. For the occasions that you saw land application  
15 occurring, did you do anything to measure or estimate the  
16 rate of application being used?

17 A. No.

18 Q. Did you do anything to determine the type of  
19 litter being land applied?

20 A. No.

21 Q. Did you do anything to measure the distance of  
22 where land application was occurring to any water body?

23 A. Yes.

24 Q. When did you do that?

25 A. We noted on one instance on Tanner Creek, which is

STEVE STEELE

April 7, 2009

144

1 a tributary to the Illinois River, a fellow spreading  
2 litter and the litter was hitting the water and I  
3 documented that, wrote it up.

4 Q. Do you know who that person was?

5 A. Not -- I'm not 100 percent. I think I know who he  
6 is.

7 Q. Who do you think it is?

8 A. It's a man named Snyder.

9 Q. Do you know who Snyder works for?

10 A. I don't really know. And from what I was told  
11 later, that the property that he was spreading on belonged  
12 to his brother and his last name is Snyder also.

13 Q. Is Snyder one of these commercial applicators?

14 A. Yes, sir.

15 Q. And he was spreading it on a -- on a piece of  
16 property in the IRW?

17 A. Yes, sir.

18 Q. And do you know whose land he was spreading it on?

19 A. Not -- I didn't do the research on it. I was told  
20 it was his brother's property.

21 Q. His brother. Do you know if his brother is a  
22 poultry grower?

23 A. No, I don't think he is.

24 Q. Did you see any poultry operations on the land  
25 where this was occurring?



STEVE STEELE

April 7, 2009

145

1 A. There were none.

2 Q. Were you able to determine where the litter that  
3 was being spread in that instance had come from?

4 A. Yes. But I can't remember who it was.

5 Q. What did you do to make that determination?

6 A. Followed the truck back to its point of  
7 origination.

8 Q. Do you know what year this happened in?

9 A. It was '05 or '06.

10 Q. Other than the Tanner Creek incident, did you do  
11 anything to measure the distance of land application to any  
12 water body?

13 A. No.

14 Q. Did you do anything to calculate the slopes of the  
15 fields that you were observing?

16 A. No.

17 Q. Did you do anything to evaluate the geology of the  
18 land that you were observing?

19 A. No.

20 Q. Did you collect anything what are known as  
21 edge-of-field samples?

22 A. No.

23 Q. Did you photograph any sampling activities?

24 A. No.

25 Q. Did you accompany any sampling teams that -- that

STEVE STEELE

April 7, 2009

146

1 the State had hired in the course of their work?

2 A. No.

3 Q. Did any of your investigators do that?

4 A. No.

5 Q. And you never made any observations that any  
6 run-off was occurring from any fields; correct?

7 A. Not that I can remember.

8 Q. You didn't make any observations in the rain;  
9 right?

10 A. I don't, no.

11 Q. I'm sorry?

12 A. No.

13 Q. Did you do anything to document the transportation  
14 of hay into or out of the IRW?

15 A. No.

16 Q. Did you do anything to document the transportation  
17 of any grains into or out of the IRW?

18 A. No.

19 Q. Did you do anything to determine how much land was  
20 available for cattle grazing?

21 A. No.

22 Q. Did you try to observe and document any instances  
23 of stream bank erosion?

24 A. No.

25 Q. Did you attempt to observe and document any

STEVE STEELE

April 7, 2009

147

1 instances of cattle in water bodies, rivers, streams, those  
2 kinds of things?

3 A. I had observed that.

4 Q. Did you -- was it part of your job to document  
5 when you saw that?

6 A. No, sir.

7 Q. Did you document when you saw that?

8 A. We have photographs of cattle in ponds.

9 Q. Did you make a note of it in your records?

10 A. I don't recall. The photographs were turned in.

11 Q. Did you do anything to investigate recreational  
12 uses of the waters in the IRW?

13 A. No.

14 Q. Did you do anything to investigate the presence or  
15 absence of septic systems in the IRW?

16 A. No.

17 Q. Did you do anything to investigate discharges  
18 coming from wastewater treatment facilities in the IRW?

19 A. No.

20 Q. Did you do anything to investigate and inventory  
21 the amount of commercial fertilizer used in the IRW?

22 A. No.

23 Q. Mr. Steele, you've had a 33-year career in the  
24 police force. In the context of your career, is it fair to  
25 say that you have had an obligation to understand what the

STEVE STEELE

April 7, 2009

148

1 laws of Oklahoma are?

2 A. Criminal laws.

3 Q. Criminal laws.

4 A. Traffic laws.

5 Q. Given your knowledge of Oklahoma law over the  
6 course of 33 years as a policeman, did you observe any  
7 poultry grower or integrator violating any law?

8 MS. WEAVER: Object to form.

9 A. Grower or integrator, no.

10 Q. (BY MR. WALKER) In the course of this work, did  
11 you see somebody else violating the law?

12 A. Yes.

13 Q. Who was that?

14 A. Some of these individual spreaders that do this  
15 for a living had unsecured loads, dropped material on the  
16 roadway. Some of them didn't have covers over the top  
17 where a cloud was following them down the road. If I was a  
18 trooper in that area, I would have pulled them over and  
19 told them to secure their load.

20 Q. Did you report any of those people or activities  
21 to the police?

22 A. No, sir.

23 Q. Why not?

24 A. We just didn't -- we just did not do it.

25 Q. Did you report any of the activities that you

STEVE STEELE

April 7, 2009

149

1 observed to any State environmental agency?

2 MS. WEAVER: Object to form.

3 Go ahead.

4 A. Personally I never did. I don't know if anything  
5 that I -- that was a work product that got to Bert Fisher  
6 that might have been sent to the Department of Agriculture  
7 or the Department of Environmental Quality. I just don't  
8 know.

9 Q. (BY MR. WALKER) But you -- you personally did not  
10 report any activities that you observed to any State  
11 agency?

12 A. No.

13 Q. The only violations of law that you saw were with  
14 respect to the transport of litter over the highways; is  
15 that correct?

16 MS. WEAVER: Object to form.

17 Go ahead.

18 A. Yes.

19 Q. (BY MR. WALKER) And those were by commercial  
20 transporters and applicators?

21 A. Yes.

22 Q. Not by any of the integrators in this case; right?

23 A. Not that I know of.

24 Q. Not any grower that you know of, either; right?

25 A. No, sir.

STEVE STEELE

April 7, 2009

150

1 Q. Other than the -- your perception of improper  
2 transportation activities, did you see anything else that  
3 you suspect in the course of your work was a violation of  
4 the law?

5 MS. WEAVER: Object to form.

6 A. No.

7 Q. (BY MR. WALKER) Have you ever gone to recreate in  
8 the IRW?

9 A. Yes.

10 Q. Do you fish?

11 A. Yes.

12 Q. Do you ever go floating on the river or anything  
13 like that?

14 A. I have, but not lately.

15 Q. Is there -- when's the last time that you went  
16 fishing in the IRW?

17 A. I fished in Lake Tenkiller probably about five or  
18 six years ago.

19 Q. Any reason that you haven't been back in the last  
20 five or six years?

21 A. I bought a place on another lake.

22 Q. What other lake are you on now?

23 A. Grand Lake.

24 Q. And why did you get a place on Grand Lake instead  
25 of Tenkiller?

STEVE STEELE

April 7, 2009

151

1           A. Because they have more things to do, better night  
2 life.

3           Q. It's not the lake, it's the town?

4           A. It's the whole environment.

5           Q. Okay.

6                       (Exhibit No. 17 was marked.)

7           Mr. Steele, the court reporter has marked  
8 Exhibit 17, which appears to be an e-mail from you. Could  
9 you please identify -- well, it's an e-mail chain but at  
10 the top it indicates your name. Can you take a look and  
11 identify that for me, please. And I'm referring to the  
12 first page, because there is a second -- e-mail on the  
13 second page.

14           When you're ready, if you can identify the  
15 first page for me and then we'll move on to the second  
16 page.

17           A. It's hard for me to understand. I see what I  
18 wrote. I don't know who wrote the I will fix it.

19           Q. Do you recall there being some issue of  
20 investigating a 15-passenger stretch van in the course of  
21 your work in this case?

22           A. No. Somebody -- I believe it was Bert said there  
23 was a 15-passenger stretch van that they thought was  
24 associated with something with the lawsuit stopped by the  
25 highway patrol. And I could never find anything out about

STEVE STEELE

April 7, 2009

152

1 it.

2 Q. So you just don't remember what this was about?

3 A. Not really.

4 Q. Is what you just told me the best you can remember  
5 about it?

6 A. Yeah. Yes, sir.

7 Q. Second page of Exhibit 17 is an e-mail from you to  
8 Bert; correct?

9 A. Yes. But it looks like there's replies going back  
10 and forth.

11 Q. Well, it appears to have some of the same  
12 communications, but I want to ask particularly about  
13 your -- your comment on this e-mail. Did you write the  
14 first two lines of this e-mail about Ms. Bev Saunders?

15 A. I don't know. I don't think so. I don't know.

16 Q. Can you --

17 A. I know who she is.

18 Q. I'll read the first two lines into the record. It  
19 says, Ms. Bev Saunders is in the morning newspaper.  
20 Enclosed are her comments. She needs to be made an example  
21 of.

22 And who is Ms. Bev Saunders?

23 A. Bev Saunders is chicken -- or a poultry farmer in  
24 Oklahoma.

25 Q. Do you have -- do you believe that she needs to be



STEVE STEELE

April 7, 2009

153

1 made an example of for some reason?

2 A. I don't know. I don't know what this even relates  
3 to. I know that they've served paper and did sampling on  
4 her property. She's the -- I don't know if she's the  
5 director or president or whatever. She does a -- she has a  
6 Web site of poultry partners and she's been pretty critical  
7 of me personally and my partner, but that wasn't until  
8 2008. Back when this went on, I wouldn't even -- I  
9 don't -- I don't know. I really don't know what this is.

10 Q. Okay. You don't remember telling Mr. Fisher that  
11 Bev Saunders needed to be made an example of?

12 A. No. And I wouldn't even know in what context.

13 Q. Are you denying that you wrote that statement?

14 A. No, I'm not. I just don't remember.

15 Q. You just don't know why you wrote that?

16 A. No.

17 MR. WALKER: I'll go ahead and mark Exhibit  
18 19.

19 (Exhibit No. 19 was marked.)

20 Q. Mr. Steele, I'll go through these page-by-page, so  
21 if you want to flip through it quickly, that's fine, but  
22 we'll get to each one eventually.

23 A. Okay.

24 Q. The first page, are these your initials on the  
25 bottom?

STEVE STEELE

April 7, 2009

154

1 A. Yes.

2 Q. Okay. Is this your handwriting?

3 A. Yes.

4 Q. At the bottom entry at time 13:43 indicates,  
5 litter photographed in a shelter, Earl Bishop farm,  
6 Cargill.

7 Do you see that?

8 A. Yes.

9 Q. Would you agree with me that there's -- there's no  
10 entry of -- that you made of any improper activity at  
11 Mr. Bishop's farm that day?

12 MS. WEAVER: Object to form.

13 A. True.

14 Q. (BY MR. WALKER) The next page, Bates labeled 4900,  
15 in the middle of the page is an observation of Ken  
16 Rutherford's farm. Do you see that?

17 A. Yes.

18 Q. Would you agree with me that there's no  
19 observation of any improper activity at that farm that day?

20 MS. WEAVER: Object to form.

21 A. True.

22 Q. (BY MR. WALKER) The next page is Page 4920. At  
23 the bottom of that page, it references there's an entry  
24 regarding the Cargill JJ working farm.

25 Do you see that?

STEVE STEELE

April 7, 2009

155

1 A. Yes.

2 Q. Are those your initials on the page?

3 A. Yes.

4 Q. And is that your handwriting?

5 A. Yes.

6 Q. And just real quick, the previous page, is that  
7 your handwriting as well?

8 A. Yes.

9 Q. Back to Page 4920, would you agree with me that  
10 there's no indication of any improper activity at that farm  
11 that day?

12 A. True.

13 Q. The next entry or next page, Page 4913, there's an  
14 entry of your observations at Breeder Farm 6; correct?

15 A. Yes.

16 Q. And that's Cargill Breeder Farm 6?

17 A. Yes.

18 Q. And it says that litter is being put on the  
19 ground.

20 Do you see that?

21 A. Yes.

22 Q. Was that land application?

23 A. Yes, sir.

24 Q. Would you agree with me you've not documented any  
25 illegal activity at Breeder Farm 6 that day?

STEVE STEELE

April 7, 2009

156

1 MS. WEAVER: Object to form.

2 A. That would be true.

3 Q. (BY MR. WALKER) The next form, Page 004, is this  
4 one of those ground truthing forms?

5 A. Yes.

6 Q. So this form relates to Early Bishop's farm;  
7 correct?

8 A. Yes.

9 Q. And it notes that all of his -- the physical  
10 condition of his structures are good -- in good condition;  
11 correct?

12 A. Yes.

13 Q. And it indicates that he had stacked litter on  
14 this form; correct?

15 A. Let me look. Yes.

16 Q. And that you observed that it was in a used litter  
17 shed; correct?

18 A. Right.

19 Q. Yes?

20 A. Yes, sir.

21 Q. The next form, Bates labeled 0517, shows Ernest  
22 Doyle Honeysuckle White farm. Do you see that?

23 A. Yes.

24 Q. Is this a form you completed?

25 A. Yes.

STEVE STEELE

April 7, 2009

157

1 Q. And the physical condition of his structures were  
2 all good; correct?

3 A. Yes.

4 Q. And there's no improper activity noted on this  
5 form, is there?

6 A. No.

7 Q. In fact, were these forms used to note any  
8 improper activity?

9 A. If we saw something that was improper, we would  
10 note it on here.

11 Q. The next form, Page 1047, is for the Honeysuckle  
12 Ramsey Farm. Do you see that?

13 A. Yes.

14 Q. Would you agree that there's nothing improper  
15 observed that's documented on this form?

16 A. I would agree.

17 Q. The next page, 943, is a form you completed for  
18 King's Ranch Honeysuckle White; correct?

19 A. Yes.

20 Q. Would you agree that there's no indication of any  
21 improper activity on this property on this form?

22 A. I would agree.

23 Q. The next form is Page 1185, the Bickford  
24 Honeysuckle White Farm. Do you see that?

25 A. Yes.

STEVE STEELE

April 7, 2009

158

1 Q. All of his structures are in good condition;  
2 right?

3 A. Yes.

4 Q. There's nothing improper about the activity on  
5 that farm noted on this form, is there?

6 A. No, sir.

7 Q. The next farm is noted on the form with the Page  
8 1166. Do you see that?

9 A. Yes.

10 Q. It's the Edwards Cargill Turkey Farm?

11 A. Yes.

12 Q. Do you see that there's no -- that the form is  
13 just not completed in the middle of the form?

14 A. Correct.

15 Q. Okay. Can you tell me why that would be the case?

16 A. I don't think the observations could be made.

17 Q. Okay. And -- so probably what should have  
18 occurred on this form or would you agree what should have  
19 been noted on this form is that it could not be observed  
20 from public access?

21 A. True.

22 Q. And that's not circled there, is it?

23 A. I think there's a check mark there.

24 Q. Oh, well, I didn't see it very well. It might be  
25 indicated?

STEVE STEELE

April 7, 2009

159

1 A. Yes.

2 Q. May I see your copy?

3 A. And what it looks like from the notes, you can  
4 only see the ends of the buildings from afar.

5 Q. Would you agree with me at least that there's no  
6 improper activity noted for that farm?

7 A. Correct.

8 Q. Next Page, 1883, is a form for Roberts Farm,  
9 Cargill; correct?

10 A. Yes.

11 Q. It's a -- all of these have been forms that you  
12 were involved in making the observations; correct?

13 A. Yes, this -- this is not my handwriting, but I was  
14 present.

15 Q. You -- you're -- you inspected this with  
16 Mr. Nance; right?

17 A. Yes.

18 Q. And you agree that's there no improper activity  
19 noted on this form?

20 A. Yes, sir.

21 Q. The next page is 1892, Fairmount -- Fairmount  
22 Farm, Cargill Turkeys; right?

23 A. Yes.

24 Q. This you also observed with Mr. Nance?

25 A. Yes.

STEVE STEELE

April 7, 2009

160

1 Q. And would you agree that there's no improper  
2 activity noted on this form?

3 A. Correct.

4 Q. And the farm's in good condition; right?

5 A. Yes.

6 Q. Next Page 2582, the Rutherford Farm; do you see  
7 that?

8 A. Yes.

9 Q. You noted that the farm was in good condition?

10 A. Yes.

11 Q. And there's no improper activity at that farm;  
12 correct?

13 A. No.

14 Q. I'm sorry. Am I correct?

15 A. No. I agree with you. Yes, sir.

16 Q. Next Page 2607 is Breeder Farm No. 2 Honeysuckle  
17 White. Do you see that?

18 A. Yes.

19 Q. And there's no improper activity noted on that  
20 form; correct?

21 A. No, there is not.

22 Q. Next Page 2652, and we're still working in Exhibit  
23 19 is Breeder Farm No. 5 Honeysuckle White. Do you see  
24 that?

25 A. Yes.



STEVE STEELE

April 7, 2009

161

1 Q. Is this another property you inspected?

2 A. Yes.

3 Q. And the structures were in good condition?

4 A. Yes.

5 Q. There's no improper activity on that farm, either;  
6 correct?

7 MS. WEAVER: Object to form.

8 A. No, sir.

9 Q. (BY MR. WALKER) Am I correct?

10 A. No, sir, there's no -- I observed no illegal  
11 activity --

12 Q. And no --

13 A. -- or improper.

14 Q. The next Page 2703, a Barbara Gin, perhaps,  
15 Cargill Honeysuckle Turkeys.

16 A. Yes.

17 Q. The structures are in good condition; correct?

18 A. Yes.

19 Q. And you also made the observations of this  
20 property; right?

21 A. Yes.

22 Q. And there is no improper activity; correct?

23 MS. WEAVER: Object to form.

24 A. Correct.

25 Q. (BY MR. WALKER) The next form, 3712, the

STEVE STEELE

April 7, 2009

162

1 Swearingen Farm for Cargill. Do you see that?

2 A. Yes.

3 Q. Do you agree that the structures you noted were in  
4 good condition?

5 A. Yes.

6 Q. And that there's no improper activity noted?

7 A. Correct.

8 Q. I have an exhibit with Page 5666 on it separately  
9 and we're gonna use that instead, so let's skip that page.  
10 And go to Page 2487, please. The Hagley farm; do you see  
11 that?

12 A. Yes.

13 Q. The Honeysuckle White?

14 A. Yes.

15 Q. I -- I can't tell, I don't -- is this your  
16 handwriting?

17 A. No, sir.

18 Q. Do you see anything on this form that indicates  
19 that there was any improper activity?

20 MS. WEAVER: Object to form.

21 A. I don't see anything on the form and this is the  
22 initials of Elizabeth Weatherly at the bottom right hand.

23 Q. (BY MR. WALKER) Okay. Well, we'll ask her about  
24 it.

25 (Exhibit No. 21 was marked.)

STEVE STEELE

April 7, 2009

163

1 THE WITNESS: Do you still want to have this?

2 MR. WALKER: It's in here, so --

3 THE WITNESS: Okay.

4 Q. (BY MR. WALKER) I think we're done with that one.  
5 Mr. Steele, the court reporter has marked Exhibit 21 and  
6 I'll represent that these appear to be observations that  
7 you were involved in. And I will tell you that it took me  
8 a little while to sort through what I think is going on  
9 here, but maybe you want to take a little time and flip  
10 through because I think there are two observations going on  
11 here. Take a moment to familiarize yourself with the  
12 document and then I'd like to ask you some questions.

13 A. Okay.

14 Q. Okay. Can you identify for me -- are you familiar  
15 with the documents in Exhibit 21?

16 A. Yes.

17 Q. The first page of Exhibit 21 is -- is that your  
18 handwriting?

19 A. Yes. And these two section things here are from a  
20 Google map or Map Quest, one or the other.

21 Q. And the top picture on the first page of Exhibit  
22 21 says Murray Ranch. Do you see that?

23 A. Correct.

24 Q. What was the purpose of -- did you put this  
25 together?

STEVE STEELE

April 7, 2009

164

1 A. Yes.

2 Q. Okay. What was the purpose of the top picture?

3 A. I don't -- I just don't remember.

4 Q. Do you know who owns Murray Ranch?

5 A. No.

6 Q. Were you trying to indicate the areas at Murray  
7 Ranch where you had observed land application?

8 A. Yes.

9 Q. And that's what the top picture shows?

10 A. I believe so, yes, sir.

11 Q. It shows that there's a creek through part of the  
12 ranch. Do you see that?

13 A. Yes.

14 Q. Did you do anything to evaluate whether litter was  
15 spread next to that creek?

16 A. No.

17 Q. The bottom half of the first page has a second  
18 picture. Do you see that?

19 A. Yes.

20 Q. And there are WP No. 2, 3 and 4 and 5. Are those  
21 waypoints?

22 A. Waypoints, yes, sir.

23 Q. And those are places that you went that day?

24 A. Yes.

25 Q. Did you go to them in order when you visited

STEVE STEELE

April 7, 2009

165

1 waypoints?

2 A. Yes. The waypoints for this type of work were  
3 determined by us by when we clicked on the GPS.

4 Q. Whenever you hit the button --

5 A. The first one was Waypoint 1, the next one is  
6 Waypoint 2.

7 Q. So they necessarily showed up in the order that  
8 you visited them; correct?

9 A. Yes.

10 Q. So you went to Waypoint 2 first and then 3 and  
11 then 4 and then 5 in this particular instance; right?

12 A. I believe so.

13 THE VIDEOGRAPHER: I'm sorry. We're gonna  
14 have to change the tapes.

15 MR. WALKER: We'll do that.

16 (Off the record from 3:11 p.m. to 3:13 p.m.)

17 THE VIDEOGRAPHER: You're back.

18 Q. (BY MR. WALKER) All right. We just had to change  
19 tapes for a moment. We're still looking at Exhibit 21.

20 Mr. Steele, maybe we can turn a few pages in  
21 to -- to go chronologically through the events here of this  
22 exhibit. To Page 5661 for the form for Waypoint 2?

23 A. Yes.

24 Q. Relative to the first page of Exhibit 21, that  
25 would be the first place you went, correct, among 2, 3, 4

STEVE STEELE

April 7, 2009

166

1 and 5?

2 A. Right. And -- and I think this is blow-up of  
3 this. You can see where the road comes.

4 Q. The bend in the road?

5 A. Yeah, see the bend in the road. That's the bend  
6 in the road.

7 Q. Well, you would agree with me, though, that  
8 they're two different pictures --

9 A. Yes.

10 Q. -- it's not just a blow-up?

11 A. This is just a better view of the lower view at  
12 that one point, which I've tried to explain to my employers  
13 where I saw activity and tried to make it easier for them  
14 to find.

15 Q. But -- but the picture on the top of the first  
16 page of Exhibit 21 has been marked differently than the  
17 picture on the bottom?

18 A. Yes, sir.

19 Q. So it wasn't just zoomed in on the -- on the  
20 bottom, it's just the -- you're saying the base map -- it's  
21 the same physical location?

22 A. Yes.

23 Q. Okay. If we go to Page 5661, which is the report  
24 for Waypoint 2, you were involved in that observation;  
25 correct?

STEVE STEELE

April 7, 2009

167

1 A. Yes.

2 Q. And this is work that you were doing in May of  
3 2006; right?

4 A. Yes, sir.

5 Q. And this is the observation at Waypoint 2 of the  
6 Murray Ranch; correct?

7 A. Yes.

8 Q. And what you were observing that day was the land  
9 application of poultry litter; correct?

10 A. Yes.

11 Q. Now, toward the bottom of the form there's -- is  
12 this your handwriting?

13 A. No, sir.

14 Q. So this is Mr. Walton's?

15 A. Yes.

16 Q. And you reviewed this form, though; right?

17 A. Yes.

18 Q. He wrote, quote, spreader truck dumping litter  
19 from 9:30 to 15:30 at continuous rate.

20 Do you see that?

21 A. Yes.

22 Q. Now, you talked earlier today about using the term  
23 dumping when you saw a truck that had litter that would put  
24 it on the ground before it got picked up for spreading;  
25 right?

STEVE STEELE

April 7, 2009

168

1 A. Right.

2 Q. He's not talking about that, is he?

3 A. He should have said spreader truck spreading  
4 instead of spreader truck dumping.

5 Q. Spreading litter is what you're observing here;  
6 right?

7 A. Yes, sir.

8 Q. And -- so he used the term differently than --  
9 than you said you used the term; right?

10 A. Yes, he did. And I should have caught that when I  
11 turned that paperwork in.

12 Q. Okay. Well, he said it again on the next line,  
13 more pictures of truck dumping litter. Do you see that?

14 A. Yes, sir.

15 Q. And the truck wasn't dumping litter, was it?

16 A. It was spreading chicken litter or poultry litter  
17 rather.

18 Q. If you go to the pictures that follow Waypoint 2,  
19 do you -- and I'll represent to you that we have done the  
20 best we can with the way the State has provided us with the  
21 records to match up the photos to that that were taken at  
22 Waypoint 2 to the summary document. The problem being is  
23 that your photo numbers do not appear in the way that they  
24 were produced to us on the pictures. Okay?

25 A. Okay.



STEVE STEELE

April 7, 2009

169

1 Q. But do these appear to you, if you have a  
2 recollection, to be pictures of the Murray Farm or the  
3 Murray Ranch?

4 Then I will direct you to the second picture,  
5 which is at Page 7822. And if you can read backwards, you  
6 might be able to tell me if that's the Murray Ranch or not.

7 A. I've seen that arch and that writing several  
8 times. That is the Murray Ranch.

9 Q. And what are these pictures that follow the  
10 Waypoint 2 observation forms? Maybe we'll just go at them  
11 one at a time. What's the picture on Page 7821 depicting?

12 A. Well, it's not the same quality as what we saw on  
13 that day, if you're talking about 7821.

14 Q. Correct.

15 A. Okay. The discoloration on the ground is where  
16 the litter was spread. The ground was two-toned. Where it  
17 was spread upon was browner and it was greener beyond where  
18 he had hadn't got yet.

19 Q. It was brown where he spread it?

20 A. Yes, sir. See where my pen is here?

21 Q. Yeah.

22 A. That was discolorations.

23 Q. Did you take -- I'm confused. When did you take  
24 this picture?

25 A. I don't know because we don't have a frame number.

STEVE STEELE

April 7, 2009

170

1 Q. Well, if -- if it corresponded to the form on May  
2 18th, 2006, is that the date that the picture would have  
3 been taken?

4 A. Yes. And this indicates 11:53 in the morning.

5 Q. Do you have some sort of expertise with regard to  
6 grass color that tells you when litter has been spread or  
7 not?

8 A. No, sir.

9 Q. Is it fair to say that you don't really have any  
10 basis in education or training to evaluate from the color  
11 of the grass whether litter has been spread there or not?

12 A. That would be correct.

13 Q. The next page at 7822, what's the purpose of that  
14 picture?

15 A. I'm not sure what Jack took -- why he took that  
16 picture unless it was just to identify that Murray Ranch  
17 sign.

18 Q. The next picture at 7823, can you tell me what the  
19 purpose of that picture is for?

20 A. No, sir.

21 Q. The next page is 7830, can you tell me the purpose  
22 of that picture is?

23 A. That's the picture of a litter truck in the field.

24 Q. Okay. Can you tell if it's spreading or not?

25 A. In this picture I cannot. I don't think so.

STEVE STEELE

April 7, 2009

171

1 Q. The next picture at Page 7831, can you tell me the  
2 purpose of that picture?

3 A. To show a litter truck in a field.

4 Q. What else is in the field?

5 A. Cattle.

6 Q. The next picture at 7832, can you tell me the  
7 purpose of that picture?

8 A. I apparently took more of a picture of the inside  
9 of the car than he did, what he was aiming at. And I can  
10 testify that's my ball cap.

11 Q. Is it also cattle that you can see in the field?

12 A. Cattle and mailbox.

13 Q. Picture 7833, can you tell me the purpose of that  
14 picture, anything?

15 A. Nothing strikes me as --

16 Q. How about the next picture at 7834?

17 A. I can't see that -- what Jack was taking a picture  
18 of there.

19 Q. Is that your hand at the wheel?

20 A. Yes. And my former wristwatch.

21 Q. What happened to your wristwatch, sir?

22 A. On April 1st of last year I quit wearing them.

23 Q. Oh, congratulations. You are my hero.

24 The next picture, 7835, what was the purpose  
25 of that picture?

STEVE STEELE

April 7, 2009

172

1 A. Okay. That picture, that's a truck spreading  
2 litter.

3 Q. Could you tell the application rate?

4 A. No.

5 Q. Do anything to try and determine the application  
6 rate?

7 A. No.

8 Q. Did you do anything to review the animal waste  
9 management plan or nutrient management plan for that farm?

10 A. No.

11 Q. Do you see anything improper about the activity  
12 that's going on in the picture at 7835?

13 A. No.

14 Q. How about 7836? Do you see anything improper  
15 about the activity that's going on in that picture?

16 A. No.

17 Q. Just litter spreading; correct?

18 A. Yes.

19 Q. Picture at 7840, can you tell me the purpose of  
20 that picture?

21 A. No. I don't know what Jack intended to depict  
22 there.

23 Q. How about the next picture at 7841?

24 A. It's the same discoloration on the ground.

25 Q. The discoloration that you just testified you

STEVE STEELE

April 7, 2009

173

1 don't have any basis to say what it means?

2 A. No, sir.

3 Q. What about Page 7782?

4 A. You can see a litter truck in the background.

5 Q. Do you know where this picture was taken from? Is  
6 this still Murray Ranch, do you believe?

7 A. I believe it is.

8 Q. I think I tried to match them up. I'm just  
9 wondering if you can recognize it from the pictures  
10 themselves.

11 A. It looks like it to me, but it's been a couple  
12 years since I've been over there.

13 Q. Anything improper about the activity that's going  
14 on in 7842?

15 MS. WEAVER: Object to form.

16 A. No, sir.

17 Q. (BY MR. WALKER) What's depicted in the picture at  
18 Page 7843?

19 A. It's a continuation of litter spreading.

20 Q. Nothing improper in that picture, sir?

21 MS. WEAVER: Object to form.

22 A. No, sir.

23 Q. (BY MR. WALKER) Okay. So we've been through the  
24 photos for Waypoint 2 and what was going on was land  
25 application; right?

STEVE STEELE

April 7, 2009

174

1 A. Yes, sir.

2 Q. I guess what I'm confused about is when you later  
3 got to Waypoint 5, it appears to me that you determined  
4 that the litter was from the Cargill Farm indicated on  
5 Waypoint 5?

6 A. Yes, sir.

7 Q. How did you -- how did you figure that out if the  
8 litter had already been land applied where it came from?

9 A. Well, he made several trips --

10 Q. Okay.

11 A. -- back and forth.

12 Q. Okay.

13 A. And it was used to observe.

14 Q. Okay. So you just followed him back and forth?

15 A. Or sat in a point where he had to come back by us  
16 and we went by and saw -- I mean, they were very busy  
17 loading these trucks and getting them empty.

18 Q. And just to go through the pictures of the Cargill  
19 Farm at Waypoint 5, is that -- and again, I've tried to  
20 match these up given the difficulty in the form of the  
21 State records we've received. But the next three pictures,  
22 can you tell are those of the Cargill Farm that you noted  
23 at Waypoint 5?

24 A. I can't say 100 percent.

25 Q. You just don't necessarily recognize that farm?

STEVE STEELE

April 7, 2009

175

1           A. I haven't been able to refresh my memory of any of  
2 this stuff. I haven't seen it in a couple of years.

3           Q. If you can take your whatever time you need to  
4 look at those three pictures, can you tell me if there is  
5 any improper activity going on at the farm that you can see  
6 on these pictures?

7                       MS. WEAVER: Object to form.

8           A. I see no illegal activity.

9           Q. (BY MR. WALKER) Do you see any improper activity?

10          A. No, sir.

11          Q. When you saw the truck going back and forth from  
12 Waypoint 5 to Waypoint 2, the Cargill farm to the Murray  
13 Ranch --

14          A. Yes, sir.

15          Q. -- did -- were you able to see the truck being  
16 loaded?

17          A. I don't remember. Those trucks of that size  
18 normally go inside the barn and they're loaded inside. The  
19 bigger trucks they use conveyors and they're outside and a  
20 tractor or bobcat or bigger than that sometimes will bring  
21 that out to the conveyor.

22          Q. Because those bigger trucks won't fit in the barn;  
23 right?

24          A. No, they will not.

25                       MR. WALKER: Okay. I said we'd take a break.

STEVE STEELE

April 7, 2009

176

1 I may be close to done and then others can ask questions  
2 next.

3 (Break was taken from 3:26 p.m. to 3:43 p.m.)

4 THE VIDEOGRAPHER: Okay. You're back.

5 Q. (BY MR. WALKER) Okay. Mr. Steele, I'm close to  
6 done but I've got some more questions still.

7 I wanted to go back to your testimony earlier  
8 today about a particular investigation you did in Tahlequah  
9 Creek area.

10 A. Yes, sir.

11 Q. You testified that Dr. Fisher directed you to go  
12 out into that area and try and find where land application  
13 was occurring; is that correct?

14 A. When -- the history of land application, not  
15 necessarily happening then, but if I could find somebody  
16 that in this area application had taken place.

17 Q. And you said that you talked to somebody who lived  
18 in the area who said that they believed that land  
19 application had happened in a particular location?

20 A. Yes.

21 Q. Do you remember what location that was?

22 A. It's north of Tahlequah and less -- probably a  
23 mile east of the main north-south highway through Tahlequah  
24 outside the city limits to the north. And if you said the  
25 road, I could tell you yeah, but I don't have it committed.



STEVE STEELE

April 7, 2009

177

1 Q. Do you remember -- who was the person who -- do  
2 you recall who told you that?

3 A. Ed Fite.

4 Q. Ed Fite's the one who told you that he thought  
5 land application was going on on a particular parcel in the  
6 Tahlequah Creek area?

7 A. Yes, sir.

8 Q. Did you go to that piece of property?

9 A. Yes.

10 Q. Okay. And did you go talk to the owner of that  
11 piece of property?

12 A. No.

13 Q. Did you make any observations of the condition of  
14 that property?

15 A. I took -- no, I did not.

16 Q. Did you see any land application going on at that  
17 property?

18 A. No.

19 Q. Did you identify any other information regarding  
20 land application in response to that particular  
21 investigation?

22 A. No.

23 Q. We talked a little bit about Mr. Sharp and I  
24 didn't ask you, do you -- do you know Mr. Sharp from before  
25 this investigation work?

STEVE STEELE

April 7, 2009

178

1 A. Yes. He used to live in Tulsa.

2 Q. How do you know Mr. Sharp?

3 A. My -- my hobby is I'm a volunteer for Oktoberfest  
4 in Tulsa. That's one of the biggest German festivals this  
5 is side of the Mississippi River. And I book the  
6 entertainment for Oktoberfest. And Jim Sharp has been  
7 associated with Jimmy Marcum, who's a blues singer in Tulsa  
8 for a long time. One of my best friends is Bill Snow,  
9 who's also a singer, and I met him through Bill Snow.

10 Q. You met Sharp through Bill Snow?

11 A. Yes, a long time ago.

12 Q. And -- so is Sharp a -- would you say that he's a  
13 close friend of yours?

14 A. No.

15 Q. A good friend of yours?

16 A. No.

17 Q. An acquaintance?

18 A. Just an acquaintance.

19 Q. Why did you recommend -- did you recommend him to  
20 Dr. Fisher?

21 A. I didn't recommend him. I introduced him to  
22 Dr. Fisher. Dr. Fisher -- and I don't know from beyond  
23 Dr. Fisher where the direction was coming from, but wanted  
24 to know someone or someones that lived near the Watershed  
25 or in the Watershed and I said I knew this one guy that

STEVE STEELE

April 7, 2009

179

1       used to live in Tulsa, Jim Sharp. He lives in Stillwell.  
2       He was a truck driver -- over-the-road trucker when I first  
3       met him. And at the time that he -- I introduced him, I  
4       don't know -- I don't even know if Jim was working then.

5           Q. And -- so the -- the reason that you introduced  
6       Mr. Sharp to Dr. Fisher was because you believed he lived  
7       in or near the IRW?

8           A. I knew he lived in it, yes.

9           Q. Was there any other reason?

10          A. No.

11          Q. Other than fact that you -- you knew him?

12          A. That's it.

13                   (Exhibit No. 22 was marked.)

14               MR. WALKER: See, it doesn't pay to get ahead  
15       with me.

16          Q. The court reporter has marked Exhibit 22, which  
17       I'll represent to you are another group of forms that  
18       appear to have your name on them. Can you look through  
19       those and tell me if these are observations you made in  
20       2007.

21                   Does Exhibit 22 contain your observations in  
22       2007?

23          A. Yes.

24          Q. When did you stop providing records to Dr. Fisher  
25       about these investigation activities?

STEVE STEELE

April 7, 2009

180

1 A. What do you mean?

2 Q. Well, I'll represent to you that my understanding  
3 of what the State and what Dr. Fisher has produced to us,  
4 those records end in April of 2007. Do you believe that  
5 that corresponds with the time that you and your  
6 investigation team stopped generating investigation  
7 materials?

8 A. I don't think that's accurate.

9 Q. Do you believe that forms of the type that we've  
10 looked at today for your investigation have been generated  
11 after April of 2007?

12 A. If my memory serves me correctly, it went beyond  
13 April. I would think May or June.

14 Q. And -- okay. And I just don't recall. Did you  
15 generate these kinds of forms in 2008?

16 A. No.

17 Q. And none in 2009; right?

18 A. No. And Gary Stansill and I went out two days in  
19 April of '08. We may have used this form, but I don't -- I  
20 don't recall us finding anybody spreading litter or that  
21 type of activity.

22 Q. So you might have used the form a couple of times  
23 in 2008, but your belief is that you would have used the  
24 form in April -- or in May and June of 2007?

25 A. I think so.

STEVE STEELE

April 7, 2009

181

1 Q. The first page of Exhibit 22 notes Edwards Farm --  
2 Edwards Farms Cargill. Do you see that?

3 A. Yes, sir.

4 Q. Is this a form that you were involved in  
5 preparing?

6 A. Mike Huff wrote this material. I was with him.

7 Q. And are you documenting that litter is being  
8 loaded at the Edwards Farms and delivered elsewhere?

9 A. Yes.

10 Q. And it was delivered at a field some distance away  
11 from Edwards Farm; correct?

12 A. Yes.

13 Q. Okay. You note that you followed three trucks  
14 that left in a convoy on Highway 59 south and then east on  
15 Washington County 9, south of Cincinnati, Arkansas; right?

16 A. I believe so, yes.

17 Q. And that they worked the field as documented by  
18 Team 2 that day; correct?

19 A. True.

20 Q. If you can turn about four or five pages in to  
21 Page No. 12764 of Exhibit 22, which is a report by Hummel  
22 and Nance. Do you see that? At least that's what it says  
23 on it.

24 A. Yeah, that's 64 -- 764.

25 Q. 12764, yes.

STEVE STEELE

April 7, 2009

182

1 A. Yes.

2 Q. Now, do you see Rod Hummel and Mike Nance's name  
3 in the top left?

4 A. Yes.

5 Q. Is that Team 2?

6 A. For that day, yes.

7 Q. For that day. Okay. So the first page we were  
8 looking at in Exhibit 22 references the spreader trucks  
9 working the field as documented by Team 2 on March 29th of  
10 2007. Is this the Team 2 report on March 29th, 2007 that  
11 you referred to?

12 A. I believe so.

13 Q. And it indicates that there were three trucks  
14 spreading the litter that came from the Emerson Farm;  
15 correct?

16 A. True.

17 Q. At a different location; right?

18 A. Yes.

19 Q. Is there anything improper about the activity that  
20 you documented on the first page of Exhibit 22?

21 MS. WEAVER: Object to form.

22 A. No, sir.

23 Q. (BY MR. WALKER) And perhaps the objection is  
24 because you didn't document it, but Mr. Mike Huff  
25 documented; correct?

STEVE STEELE

April 7, 2009

183

1 A. Yes, sir.

2 Q. Okay. There's -- there's nothing improper that  
3 Mr. Mike Huff documented that you were there to see;  
4 correct?

5 MS. WEAVER: Object to form.

6 A. We saw no improper activity.

7 Q. (BY MR. WALKER) The next page, 12678, is -- I  
8 apologize for the quality of the photograph, but it  
9 indicates that there was litter in the road. Do you recall  
10 what this is for, what it relates to?

11 A. No. Unless it's a trail that gives you a starting  
12 point.

13 Q. Did you prepare this map?

14 A. That map I did prepare. That's my handwriting.

15 Q. Do you know why you prepared this map?

16 A. On a good deal of these map -- or a good deal of  
17 these forms, at the end of the day at home I would Google  
18 map, blow it up and try to show the exact fields and put  
19 some kind of marks there to show what we saw so the people  
20 that come behind us could find the same location.

21 Q. And the people that come behind you being who?

22 A. Now that I don't know. I was under the impression  
23 that somebody else would be doing edge-of-field test or  
24 creek -- testing in the creeks and tributaries, but I don't  
25 know those people.

STEVE STEELE

April 7, 2009

184

1 Q. Okay. The next page, Page 12681, is this a form  
2 that Mr. Huff filled out that you participated in the  
3 observations?

4 A. Yes.

5 Q. Same day, April 29th, 2007; correct?

6 A. Right.

7 Q. The notes indicate that you saw a spreader truck  
8 spreading waste on sloping field immediately next to  
9 Cincinnati Creek. Do you see that?

10 A. Yes.

11 Q. Did you do anything to measure how far the  
12 spreading was occurring from the creek?

13 A. No.

14 Q. A couple lines below that it says that there was a  
15 truck spreading on a slope. Do you see that?

16 A. Yes.

17 Q. Did you do anything to measure or calculate the  
18 slope, the degree of slope?

19 A. No, sir.

20 Q. And then the next line says there were various  
21 photos of litter in the roadway. Do you see that?

22 A. Yes.

23 Q. Do you know how much litter was in the roadway?

24 A. It would be very minimal.

25 Q. Okay.



STEVE STEELE

April 7, 2009

185

1           A. But enough to tell that it's there. I mean, it's  
2 not like stacked deep. It's just -- I'll have to show you  
3 in a picture or -- when they come out of the field, there's  
4 litter on the trucks. When they spread with the device at  
5 the back, some of it gets on the back of the truck. When  
6 they come out and go over bumps, things fall on the ground.  
7 I'm not saying it's spread on the road. I'm saying things  
8 fell off the truck.

9           Q. Just like a dump truck that's carrying dirt in it,  
10 gravel truck, they all do the same thing; right?

11          A. Yes, sir.

12          Q. Unless they wash them out after they're done,  
13 that's what happens; correct?

14          A. Yes, sir.

15          Q. If you would have seen any litter going into the  
16 creek in relation to the observation made at 12681, would  
17 you have specifically seen that that appeared on this form?

18          A. Yes, sir.

19          Q. And that observation --

20          A. To my knowledge, that did not happen.

21          Q. That did not happen; right?

22          A. (Witness shaking head.)

23          Q. And in fact, the form itself doesn't indicate  
24 other than by waypoint where the spreading was occurring;  
25 right?

STEVE STEELE

April 7, 2009

186

1 A. Correct.

2 Q. Next Page 12689, is that a form that just -- that  
3 documents additional land application using litter loaded  
4 at Edwards Farm?

5 A. Yes.

6 Q. And that that litter was taken to another  
7 location, to some other field?

8 A. Yes.

9 Q. Do you know who owned the field where that was  
10 land applied?

11 A. No.

12 Q. Do you know -- did you document what company was  
13 doing the land application?

14 A. No.

15 Q. And that's -- that's true of all the land  
16 application we've talked about so far in Exhibit 22, you  
17 don't know what company was actually doing that work, do  
18 you?

19 A. In a couple instances, none that we've talked  
20 about here, I could recognize who the guy was doing it.

21 Q. Okay. And I'm referring to the litter that was  
22 coming from the Edwards Farms --

23 A. No, sir.

24 Q. -- in this Exhibit 22.

25 A. I don't know who did it.

STEVE STEELE

April 7, 2009

187

1 Q. I meant to ask for each of those forms that we've  
2 been talking about so far in Exhibit 22. Did you document  
3 any observation of any illegal or improper activity?

4 A. No, sir, none were documented.

5 Q. The next page is the Team 2 page we've already  
6 talked about, correct, Hummel and Nance?

7 A. What's the bottom of it?

8 Q. Page 12764.

9 A. Yes.

10 Q. And I'm just -- I'm skipping past that one.

11 A. Okay.

12 Q. I'm just keeping track for the record, so go to  
13 the next page, which is 12699.

14 A. Okay.

15 Q. Is that your handwriting?

16 A. No, sir.

17 Q. Okay. Mr. Huff's?

18 A. Yes.

19 Q. Okay. But you were with him that day?

20 A. Yes.

21 Q. What was the purpose of the notes that were  
22 written for those observations that day?

23 A. It looked like that field had been fertilized with  
24 the Rucker Honeysuckle Farm. I don't think he even is in  
25 operation. It was -- that was the closest sign adjacent,

STEVE STEELE

April 7, 2009

188

1 but I don't think it's an active, ongoing farm.

2 Q. It happened to be nearby the field where you  
3 said -- where Mr. Huff indicated that there was application  
4 going on?

5 A. Yes.

6 Q. And the basis for the application that he noted  
7 was bright green vegetation?

8 A. Yes.

9 Q. And he stated that it was obviously applicated.  
10 Do you know what was applied, if anything?

11 A. No, sir.

12 Q. You weren't actually watching any land application  
13 at that location?

14 A. No, sir. It looked like a fertilized field, very  
15 green.

16 Q. I have to ask just because you said it. Is there  
17 any criteria that you and the investigators used to  
18 determine what very green was versus green versus  
19 fertilized versus not fertilized?

20 A. No, sir. Just we made observations of things that  
21 looked a little bit different. We'd write it down and give  
22 it to our bosses.

23 Q. But you'd do more than make observations, though,  
24 you'd make conclusions like Mr. Huff did, that it was  
25 obviously applicated; right?

STEVE STEELE

April 7, 2009

189

1 A. It looked like it had been fertilized.

2 Q. That's -- that's a conclusion, not an observation,  
3 wouldn't you say?

4 A. That's Mr. Huff's conclusion.

5 Q. And Mr. Huff -- do you know if Mr. Huff has any  
6 expertise in agriculture to make conclusions about the  
7 color of foliage?

8 A. I'm quite sure he does not.

9 Q. He's a Tulsa police officer; right?

10 A. He's the commander of homicide unit, yes, sir.

11 Q. And probably seen a few cemeteries?

12 A. Yes.

13 Q. The next page is 12709, that's a notation of your  
14 team with Stansill; correct?

15 A. Right.

16 Q. Is this your writing?

17 A. No.

18 Q. The notation indicates that there were tire tracks  
19 in a field?

20 A. Right.

21 Q. And it also indicates that the Rucker Honeysuckle  
22 Farm was nearby, but again, that -- were you able to  
23 determine whether the tire tracks were on Rucker's farm or  
24 not?

25 A. Oh, they were not.

STEVE STEELE

April 7, 2009

190

1 Q. They were not. The next page, 12731, is another  
2 report by you and Stansill; correct?

3 A. Correct.

4 Q. And it's the Linda Emerson Willowbrook Foods is in  
5 the notes; right?

6 A. Yes.

7 Q. Were you looking at a Willowbrook here or can you  
8 tell?

9 A. Oh, I can't tell from this.

10 Q. And all that was noted was that there were tire  
11 tracks in some field there; right?

12 A. Yes.

13 (Exhibit No. 23 was marked.)

14 Q. Mr. Steele, Exhibit 23 contains just three pages  
15 and each of those pages has your name on it; correct?

16 A. Yes.

17 Q. Would you agree that these are investigation  
18 observations that were made while you were present?

19 A. Yes.

20 Q. The first page, is that your handwriting?

21 A. No.

22 Q. Is that --

23 A. There's none of my handwriting on any of this.

24 Q. Okay. That's Mr. Huff's handwriting?

25 A. Yes.

STEVE STEELE

April 7, 2009

191

1 Q. The Chief of the homicide division?

2 A. Yes.

3 Q. And he's written on this form that you reviewed,  
4 that the field was obviously very green and  
5 over-fertilized. Do you see that?

6 A. Yes, sir.

7 Q. Again, you're pretty sure Mr. Huff -- you're quite  
8 sure Mr. Huff has no basis in his experience for making a  
9 statement like that; correct?

10 A. He doesn't have the educational background nor do  
11 I to guess what the purpose of -- or the reason something's  
12 very green or not. We can only have our opinion.

13 Q. Or whether something's been over-fertilized or  
14 not; correct?

15 A. True.

16 Q. Earlier in your testimony we identified documents  
17 that you reached the conclusion in pictures that you  
18 initially stated, anyway, that something was  
19 over-fertilized because it was brown; right?

20 A. Right.

21 Q. And this says it's over-fertilized because it's  
22 green?

23 A. Yes.

24 Q. Those aren't consistent with each other?

25 A. Yes, they are. Because sometimes brown things in

STEVE STEELE

April 7, 2009

192

1 the middle of spring when they appear to be burnt, they may  
2 have had too much fertilizer on them.

3 Q. All you know is that they were brown; right?

4 A. Right.

5 Q. Are you familiar with the fact that there are warm  
6 weather grasses and cool weather grasses?

7 A. Yes.

8 Q. Are you familiar with the fact that they change  
9 color depending on the season?

10 A. Yes.

11 Q. Okay. Mr. Steele, I just have a few questions to  
12 wrap up and be sure that I've got your testimony correct on  
13 a few points.

14 Neither you nor your investigators set foot  
15 on a single grower's property in the IRW; correct?

16 A. I can only testify to my team. I did not. My  
17 partner never has. And I've been told the other ones had  
18 not.

19 Q. And you actually told them not to do that; right?

20 A. Yes, sir.

21 Q. And you didn't talk to a single grower in the IRW,  
22 did you?

23 A. No, sir.

24 Q. You didn't run a single test on any material you  
25 said was dumped or spread in the IRW?



STEVE STEELE

April 7, 2009

193

1 A. No, sir.

2 Q. You didn't take a single field soil sample where  
3 you say spreading occurred, did you?

4 A. No, sir.

5 Q. You didn't see any run-off from any field over the  
6 course of your investigation activities?

7 A. No, sir.

8 Q. You didn't even go out in the rain; right?

9 A. I didn't.

10 Q. You didn't investigate the extent and location of  
11 cattle operations in the IRW, did you?

12 A. No, sir.

13 Q. You didn't investigate the location and function  
14 of any septic systems in the IRW; correct?

15 A. No, sir.

16 Q. And you didn't see anything illegal done by any  
17 grower or integrator in the course of your investigation  
18 work; correct?

19 MS. WEAVER: Object to form.

20 A. No.

21 Q. (BY MR. WALKER) And you didn't report any  
22 observation that you made in the course of your  
23 investigation to any State agency?

24 A. No.

25 MR. WALKER: I'll pass the witness.

STEVE STEELE

April 7, 2009

194

1 MR. MIRKES: Can we switch spots?

2 (Off the record from 4:09 p.m. to 4:14 p.m.)

3 THE VIDEOGRAPHER: We're back.

4 EXAMINATION

5 BY MR. MIRKES:

6 Q. Hello, sir. We met earlier. My name is Craig  
7 Mirkes. I represent Peterson Farms. And first I'm gonna  
8 cover -- I'm just gonna go over my notes and ask you some  
9 questions that were asked earlier and then we'll get to  
10 what I have prepared.

11 Will you flip back to Exhibit 22 for just a  
12 moment, and specifically the third page of that exhibit.  
13 And on the fourth -- one, two, three, four -- actually on  
14 the fifth line down there references a litho yellow barrel.

15 A. What's your bottom page number?

16 Q. It's Bates No. 12681.

17 A. Okay.

18 Q. I'm sorry.

19 A. Okay. I've got that.

20 Q. See on the fifth line where it says a litho yellow  
21 barrel?

22 A. Yes.

23 Q. What is a litho yellow barrel?

24 A. Lithochimiea, not through what we were doing but  
25 through other people, had barrels with some kind of device

STEVE STEELE

April 7, 2009

195

1 inside chained down in the creeks and certain places in the  
2 tributaries in the rivers of the Illinois River to measure  
3 whatever flowed through there. And that barrel was visible  
4 from the highway as you go through Cincinnati, Arkansas.

5 Q. So that barrel was in Arkansas?

6 A. Yes.

7 Q. How did you know that there were litho yellow  
8 barrels out there?

9 A. We'd seen them. We'd seen them on the back of  
10 their trucks when they took them out.

11 Q. Who is they?

12 A. Whatever company that did that. You know, under  
13 the direction of Dr. Fisher. And the testing company I  
14 thought was -- had the initials CDM, but I don't know those  
15 fellows.

16 Q. What did the yellow barrels look like? I mean,  
17 did they say Lithochimiea plainly?

18 A. They were -- I believe they were plastic yellow  
19 and had the label of Lithochimiea and the phone number on  
20 there.

21 Q. And just to clean it up, did you have anything to  
22 do with putting those barrels out?

23 A. No, sir.

24 Q. Did you hear any stories about them putting the  
25 barrels out?

STEVE STEELE

April 7, 2009

196

1 A. No, sir.

2 Q. You'll have to excuse me as I go through my notes.

3 Earlier you testified that you went to a  
4 meeting with Mr. Barnes.

5 A. Yes.

6 Q. A grower --

7 A. Uh-huh.

8 Q. -- in another Watershed, I believe his name is  
9 Barney Barnes; is that -- is that accurate?

10 A. That's what they call him. I don't know his first  
11 name.

12 Q. And you accompanied Dr. Fisher and Chuck Shipley  
13 and possibly Randy Miller?

14 A. Yes.

15 Q. What -- and you -- your testimony from what I've  
16 written down is you asked questions about poultry litter  
17 and spreading?

18 A. Yes.

19 Q. Was any testing done when you were there?

20 A. No.

21 Q. Did they discuss testing?

22 A. No.

23 Q. You also said that that wasn't the only place you  
24 went on that day.

25 A. I went to other places in the Watershed, but --

STEVE STEELE

April 7, 2009

197

1 Q. Which Watershed?

2 A. Illinois.

3 Q. Where did you go?

4 A. Yeah, I really can't remember. I think we ate  
5 lunch over there that day in a small town, but I mean, I  
6 really can't remember. It's been three years ago.

7 Q. Well, I guess the reasoning for my question is  
8 what was special about that day that Dr. Fisher, Chuck  
9 Shipley and possible Randy Miller accompanied you to the  
10 Watershed?

11 A. Chuck Shipley was Mr. Barnes' attorney and  
12 apparently he'd been involved in some sort of litigation  
13 where Mr. Shipley represented him. I think from the way I  
14 understood Mr. Miller, Mr. Shipley had some sort of  
15 relationship and he asked if he could be introduced to  
16 Mr. Barnes and he introduced us.

17 Q. And then from there you went on into the Illinois  
18 River Watershed?

19 A. I believe so.

20 Q. After you went to Barney Barnes' place?

21 A. I believe so.

22 Q. Did you carry a firearm when you were in the  
23 Watershed?

24 A. Yes.

25 Q. Do you carry a firearm all the time?

STEVE STEELE

April 7, 2009

198

1 A. Not anymore.

2 Q. Do you have a concealed carrying license?

3 A. At this time I don't need one.

4 Q. I'm ignorant of the law, I guess. As a former  
5 police officer, you don't need one or you just don't?

6 A. No. I can carry a firearm in any state in the  
7 Union.

8 Q. Due to?

9 A. Federal law.

10 Q. But you did carry a firearm when you were in the  
11 Watershed?

12 A. I had a firearm with me. I wasn't carrying it on  
13 my person. I have it in my briefcase usually in the trunk.

14 Q. Is that standard? Did do you that all the time,  
15 anyway?

16 A. Yeah.

17 Q. Did all of your investigators carry firearms when  
18 they were in the Watershed?

19 A. I don't know. They could have.

20 Q. Did you ever feel like you needed your firearm?

21 A. No.

22 Q. Now, I'm gonna skip -- I don't have an exhibit.  
23 I'm gonna refer back to Exhibit No. 7, which is the ground  
24 truthing sheets. Is that accurate?

25 A. Yes, this is the original model.

STEVE STEELE

April 7, 2009

199

1 Q. And if I understood you correctly, the item that  
2 says razed and I believe there's a check box yes or no.

3 A. Yes.

4 Q. What -- what that means is was the building  
5 destroyed or removed?

6 A. That's what it -- how I interpreted that. I think  
7 it was misspelled here.

8 Q. Was -- because the other obvious definition would  
9 be it's raised higher?

10 A. Elevated, yeah.

11 Q. Do you know -- and I'll just represent to you in  
12 looking at some of the sheets, it appears that some of the  
13 people that used these sheets thought that it meant they  
14 were literally raised on a higher elevation?

15 A. Correct.

16 Q. Do you remember having any discussions trying to  
17 clear that up or --

18 A. As we got towards the end of this form, using this  
19 form, the word raised for elevation is spelled correctly  
20 here. But razed for it's gone is not here and that's how I  
21 took it as the building had been taken away. And we found  
22 a lot of those where you just find a foundation or not even  
23 a foundation, just the remnants of it.

24 Q. Like a footprint?

25 A. Yes.

STEVE STEELE

April 7, 2009

200

1 Q. So razed as you used it meant the building was no  
2 longer there?

3 A. Yes.

4 Q. Earlier you were talking about cake and what cake  
5 is. It's the top layer?

6 A. Yes.

7 Q. How do you know that? Who told you what cake was?

8 A. Mr. Garren explained it to me.

9 Q. Did Mr. Garren tell you about how all of -- I  
10 mean, all the kind of technical terms with poultry, the  
11 poultry industry, is he your authority?

12 A. No. He told me what cake was and -- but he did  
13 not instruct me in the things that you've mentioned.

14 Q. Such as?

15 A. All other things in the poultry industry.

16 Q. Like stacked raw litter, he didn't tell you what  
17 that was?

18 A. No, sir.

19 Q. You described some litter dumping is how you  
20 characterized it in Arkansas by Bud Kidd Lake or Kidd Lake?

21 A. Yes, sir.

22 Q. Do you remember when that observation was made?

23 A. '05 and '06, possibly '07 also.

24 Q. Did you make a routine of going and checking the  
25 status of that area?



STEVE STEELE

April 7, 2009

201

1 A. Yes, sir.

2 Q. Was there an integrator sign or any identification  
3 of that area?

4 A. No, sir.

5 Q. Was that area -- was there a berm created around  
6 that area?

7 A. No, sir.

8 Q. Did you take photographs of that area?

9 A. Yes, sir.

10 Q. Okay. In a lot of these investigative reports and  
11 even in the testimony just a few minutes ago, you testified  
12 that tire tracks in the field indicated the spreading of  
13 something. If you see tire trucks in a field, you would  
14 surmise that it was spreading of something?

15 A. If I saw a certain pattern, serpentine going back  
16 and forth, I would say it was consistent with that.

17 Q. Did you ever see anybody ever harvesting hay in  
18 the Watershed?

19 A. I can't remember if I have or not.

20 Q. Have you ever in your life?

21 A. Yes.

22 Q. How do they cut hay?

23 A. Nowadays with a cutter and another vehicle comes  
24 behind and makes it into the giant snack cakes that we see  
25 all over the side of the roads.

STEVE STEELE

April 7, 2009

202

1 Q. What pattern?

2 A. A similar pattern.

3 Q. So it's possible, too, it could have been haying  
4 going on; is that -- is that accurate?

5 A. It could be.

6 Q. When you conducted the investigations into the  
7 illnesses or alleged illnesses in the Watershed in 2005 --

8 A. Right.

9 Q. -- those were in person or over the phone?

10 A. No. Those were in person.

11 Q. How did you identify yourself when you -- when you  
12 made contact with these people?

13 A. I told them that I was working for the law firm  
14 that's representing the State of Oklahoma in the poultry  
15 lawsuit.

16 Q. Which law firm?

17 A. Bullock, Bullock and Blakemore.

18 Q. Did you give them a card or anything?

19 A. No.

20 Q. Did you identify yourself as a Tulsa Police  
21 Officer?

22 A. I was -- told them I was an off-duty Tulsa Police  
23 Officer hired by the law firm.

24 Q. Did you wear an FBI jacket?

25 A. No. But I have some.

STEVE STEELE

April 7, 2009

203

1 Q. Did you wear an FBI jacket when you were serving  
2 subpoenas in this case?

3 A. I didn't serve subpoenas in this case while I was  
4 on active duty with the police officer. I think you're  
5 referring to an incident with Rod Hummel and he'll be in  
6 here later this week.

7 Q. So it was Ron Hummel who was --

8 A. Rod Hummel.

9 Q. Rod Hummel was wearing an FBI jacket while -- what  
10 was he doing?

11 A. He was -- he was serving subpoenas and he wore a  
12 jacket that was a souvenir from the FBI Academy that had  
13 the FBI Academy logo on the shirt, where the front over  
14 what would be my pocket here. It was not like FBI raid  
15 jacket that you'd see on television where somebody's  
16 kicking in the backdoor to some place and rooting everybody  
17 out.

18 Q. Did that FBI shirt intimidate people?

19 MS. WEAVER: Object to form.

20 A. I don't know. They said that it did.

21 Q. (BY MR. MIRKES) As you know, there is a whole  
22 series of depositions set for the rest of this week for all  
23 the other investigators that were under your charge.

24 A. Yes.

25 Q. Do you plan to talk to any of those investigators

STEVE STEELE

April 7, 2009

204

1 after your deposition today?

2 A. I hope not.

3 Q. Do you anticipate that any of them will call you?

4 A. It's a possibility.

5 Q. Do they know that you're testifying today?

6 A. Yeah.

7 Q. Have you been instructed by anyone not to talk to  
8 them?

9 A. Not yet.

10 Q. Do you intend to talk to them?

11 A. I hope not.

12 Q. Will you?

13 A. If they call, I will tell them I had a wonderful  
14 time on the fourth floor and everybody was polite and there  
15 was plenty of water and they just asked me what I did.

16 Q. Do you anticipate your son-in-law will call you?

17 A. No.

18 Q. Does he know you're testifying today?

19 A. Yes.

20 Q. You testified that you were directed by Randy  
21 Miller to perform background investigations; is that  
22 correct?

23 A. Yes.

24 Q. You testified that you did some background  
25 investigation work on Archie Schaeffer and several other

STEVE STEELE

April 7, 2009

205

1 industry folks.

2 A. Yes.

3 Q. Did you ever do a background investigation on  
4 Lloyd Peterson?

5 A. No.

6 Q. Blake Evans?

7 A. Doesn't sound familiar.

8 Q. Kerry Kenyon?

9 A. No.

10 Q. Any other former or current Peterson employee?

11 A. One, I think a female. I can't remember her name.

12 Q. What did you find?

13 A. Not much. Just where she lived and how long she  
14 had been there and was a former schoolteacher, that type of  
15 thing.

16 Q. Who gave you her name?

17 A. I got it from Randy Miller.

18 Q. Did you do a search on any of the attorneys in  
19 this case?

20 A. Not that I recall.

21 Q. That's good. Those background investigations you  
22 conducted, is that something I could do?

23 A. Pretty much. I think so. If you have the right  
24 computer connections, access to Lexus Nexus, those type of  
25 things.

STEVE STEELE

April 7, 2009

206

1 Q. Exhibit 17 was the e-mail. If you want to pull it  
2 out, you can. It was an e-mail that referenced Bev  
3 Saunders and the "she should be made an example of" comment  
4 or something in that context. Do you recall that?

5 A. Yeah, I remember reading that this morning, but I  
6 can't remember what context that was to.

7 Q. Are you looking at the e-mail?

8 A. I'm trying to. Exhibit 17?

9 Q. That's what I have written down in my notes.

10 MS. WEAVER: It's on the second page.

11 A. Yeah, I see it.

12 Q. (BY MR. MIRKES) What was the date of that again?

13 A. 24 January of '06.

14 Q. Do you recall -- excuse me -- doing any  
15 investigative work of Bev Saunders or the Tucson Farm?

16 A. No, sir.

17 Q. Ever?

18 A. No, sir.

19 Q. Did you know -- well, you knew she was a poultry  
20 grower?

21 A. Yeah. I don't know what the Tucson Farm is.

22 Q. That's her farm.

23 A. No.

24 Q. Do you know a man named Al Saunders?

25 A. I don't know who that is.

STEVE STEELE

April 7, 2009

207

1 Q. How do you know Bev Saunders?

2 A. She's -- we've looked at the Web site of Poultry  
3 Partners and she's the one in charge of that. And she  
4 would do some editorial comment about the lawsuit and some  
5 of the people working for lawyers involved in it.

6 Q. And you referenced earlier that she has said stuff  
7 about you.

8 A. She did last year.

9 Q. What did she say about you?

10 A. That I was a city boy and didn't know who was  
11 feeding me. That I should take my hat off to the farmers.

12 Q. Those were her exact words?

13 A. Pretty much.

14 Q. Is she right?

15 A. I'm a city boy.

16 Q. Have you ever grown up on a -- you didn't grow up  
17 on a farm?

18 A. No.

19 Q. Have you ever spent any time on a farm?

20 A. Only for deer hunting or pheasant hunting.

21 Q. When you witnessed a litter spreading event, how  
22 close would you get to the litter application?

23 A. Oh, every distance from here to that camera, to as  
24 far as one of those buildings over there.

25 Q. So just to be clear, from here to that camera is

STEVE STEELE

April 7, 2009

208

1 10 to 12 feet?

2 A. Yes. It wasn't intentional.

3 Q. What were you wearing?

4 A. Just normal street clothes.

5 Q. Did -- did the State of Oklahoma give you any kind  
6 of protective clothing to wear?

7 A. No. I own some of my own.

8 Q. Were you ever told that maybe you should wear  
9 those?

10 A. Under the circumstances I'm describing of the 10  
11 or 20 feet away, I wish I would have been, but I didn't  
12 have the chance.

13 Q. Because?

14 A. The guy opened up the flood gate and I was driving  
15 right in front of it.

16 Q. Did the State of Oklahoma ever tell that you  
17 chicken litter is a hazardous waste?

18 A. I never had any communications directly with the  
19 State of Oklahoma while I did this work.

20 Q. Did any of the attorneys or Bert Fisher tell you  
21 that you chicken litter is a hazardous waste --

22 A. No.

23 Q. -- and that you should --

24 A. No, I can't remember that.

25 Q. Did you have to use the restroom while you were in



STEVE STEELE

April 7, 2009

209

1 the Watershed?

2 A. Yes.

3 Q. Where did you go?

4 A. Convenience stores, gas stations.

5 Q. Did you ever use the restroom just on the side of  
6 the road?

7 A. No, sir.

8 Q. Anybody under your charge?

9 A. Well, I didn't -- I didn't keep attendance check  
10 of their bathroom movements.

11 MR. MIRKES: Let's change tapes.

12 (Off the record from 4:30 p.m. to 4:33 p.m.)

13 (Exhibit No. 25 was marked.)

14 THE VIDEOGRAPHER: Okay.

15 Q. (BY MR. MIRKES) Mr. Steele, I'm gonna hand you  
16 what's been marked as Exhibit 25. If you'll take just a  
17 moment to review that. Let me know when you're ready.

18 And I'll represent to you what you see is the  
19 paralegal in our office went to great pains to match up the  
20 frame numbers to the Bates number.

21 A. Uh-huh.

22 Q. And just as referenced earlier, I'm -- I feel  
23 very -- not very -- I'm pretty confident that these match  
24 up. If you see anything that you -- in any of my exhibits  
25 that you don't think match up, please say so.

STEVE STEELE

April 7, 2009

210

1 A. Okay.

2 Q. But for the ease of these questions, hopefully,  
3 the frame numbers match up to make this go a little easier.

4 Are you ready?

5 A. Sure.

6 Q. And this was a report that was done by you and  
7 Stansill on --

8 A. This is Stansill's handwriting, a report done on  
9 March 29th of '06.

10 Q. But you were present on this day?

11 A. Yes.

12 Q. And the notes say, Fred Spence, Peterson Farms,  
13 two litter trucks working and emptying litter at Waypoint  
14 428, transported through Watershed.

15 Is that accurate?

16 A. It's true, as far as I can recollect.

17 Q. Can you tell based on that latitude and longitude  
18 a description in what Watershed this is located?

19 A. I can't personally without referring to a map or a  
20 GPS, but I believe this is the Illinois River Watershed.

21 Q. If I represent to you that this is not in the  
22 Illinois River Watershed, can you tell me why an  
23 investigation was being done on the farms outside of the  
24 Watershed?

25 A. Well, I think myself and Gary Stansill thought we

STEVE STEELE

April 7, 2009

211

1 were inside the Watershed at the time. And do you have the  
2 other documentation for Waypoint 428?

3 Q. Well, that's one of my questions.

4 A. Because we refer to 428, it would seem like we've  
5 got about half the -- half the story here.

6 Q. And -- well, and that's part of my question. How  
7 do I go about finding where Waypoint 428 is?

8 A. I can't help you on that because I don't have any  
9 of the material. All the stuff that we had was turned in  
10 to Lithochimiea. This would have been over three years  
11 ago.

12 Q. So you're kind of pointing out the problem that  
13 we're facing, is that these just have waypoints identified  
14 but there's really no key to show us where any of these --  
15 I have no idea where Waypoint 428 is --

16 A. I don't either.

17 Q. -- and apparently you don't, either.

18 A. No.

19 Q. How does one go about figuring out where 428 is?

20 A. The keeper of these records is the person that  
21 should be subpoenaed to talk about that.

22 Q. Is that Bert Fisher?

23 A. Bert Fisher or one of his employees.

24 Q. The -- so the notation transporting through  
25 Watershed, you -- you don't really know which Watershed?

STEVE STEELE

April 7, 2009

212

1           A. Well, if you're telling me I don't know where I  
2 was at at this point, with this information, without 428, I  
3 can't tell you.

4           Q. Well, all I can tell you is that as far as I know,  
5 Fred Spence's farm is not in the Illinois Watershed. And  
6 so far as this investigation appeared to be at Fred  
7 Spence's location, it's not in the Illinois Watershed. I'm  
8 trying to figure out where 428 is. Just so based on this,  
9 I can't -- it really tells me nothing.

10          A. If -- the only thing that I can -- well, I'm  
11 not -- I don't want to guess. But without 428, I can't  
12 answer the question.

13          Q. It said, two litter trucks working on emptying  
14 litter at Waypoint 428. Were they land applying the  
15 litter?

16          A. Yes.

17          Q. Is there anything unlawful going on that you  
18 noticed?

19                   MS. WEAVER: Object to form.

20          A. No.

21                   (Exhibit No. 26 was marked.)

22          Q. (BY MR. MIRKES) Let me hand you what's been  
23 marked as Exhibit 26. I apologize that I'm short on  
24 copies.

25                   MR. WALKER: That's okay.

STEVE STEELE

April 7, 2009

213

1 MR. CHADICK: That's all right.

2 Q. (BY MR. MIRKES) If you'll take just a minute and  
3 review.

4 A. Okay.

5 Q. Are you ready?

6 A. Uh-huh.

7 Q. In looking at 5018, which is the 5018, 5019 and  
8 5020 are the investigative. Reports --

9 A. Uh-huh.

10 Q. Of the observers, it lists you as the only person?

11 A. Right. I was by myself.

12 Q. Do you remember this investigation?

13 A. Yeah, just I happened onto it.

14 Q. Okay. Looking at Frame Nos. 1434 and 1435.

15 A. Uh-huh.

16 Q. What -- what does that depict?

17 A. It's suspected dead chickens.

18 Q. Is there a berm in front of those birds between  
19 your --

20 A. I couldn't tell.

21 Q. Based on your vantage point on the public road  
22 and --

23 A. My vantage point on a public road that I could see  
24 best indicated 1437.

25 Q. So are you -- are you describing to me that the

STEVE STEELE

April 7, 2009

214

1 scene seen in 1434 is the exact same scene seen in 1437?

2 A. No, I'm not.

3 Q. And we'll focus on that shed in just a second. So  
4 in reviewing these investigative reports, it appeared to me  
5 that those were two different areas, 1434 and 35. So based  
6 on those photographs, it appears there's some sort of berm  
7 or land mass between you and those suspected dead chickens.  
8 Maybe a better question is, can you see the entire pile  
9 there?

10 A. On 1434, that was just what I could see from the  
11 street. Same with 1435.

12 Q. Okay. Did you report this to anybody?

13 A. Yeah. I made this report and gave it to  
14 Mr. Fisher.

15 Q. Is this a violation of law?

16 A. I don't know.

17 Q. Let's look at 1445.

18 MS. WEAVER: Did you say 1445?

19 MR. MIRKES: Yes, ma'am.

20 Q. What is 1445 showing?

21 A. This is a road going -- this is a public street.  
22 This is the back of the farm. That earlier thing that you  
23 asked me what the berm was --

24 Q. Uh-huh.

25 A. -- these are the chickens underneath that same

STEVE STEELE

April 7, 2009

215

1 silo.

2 Q. But you -- you say that's a public road?

3 A. Yes, sir.

4 Q. 1434 and 40 -- I don't know because I wasn't  
5 there, but wouldn't you get a better vantage point if you  
6 took that public road up close to that silo?

7 A. I didn't want to get close enough to the farm. It  
8 upsets the people if they were there.

9 Q. Understood. And if I'm at 1445 and that was when  
10 your investigation was done on it, December 30th, 2005; is  
11 that correct?

12 A. Yes.

13 Q. So that was two days in a row you saw those  
14 suspected dead birds?

15 A. Yes. It was close by to where my place is at  
16 Grand Lake.

17 Q. And then moving to the report on 12/31/05, that's  
18 Bates-numbered 5020.

19 A. Where is that at?

20 Q. Third page of the exhibit. Your notes indicate  
21 the chickens next to silo had been removed by farmer or  
22 hand.

23 A. Uh-huh.

24 Q. Or have been eaten by buzzards, raccoons or  
25 coyotes, feathers on the ground. Is that accurate?

STEVE STEELE

April 7, 2009

216

1 A. Yes.

2 Q. Did you take photos of that area on 12/31?

3 A. No. There wasn't anything to take a photo of.

4 Q. There were feathers on the ground?

5 A. That's it. But that was a far distance from where  
6 I was at.

7 Q. How could you tell there were feathers on the  
8 ground without trespassing onto the property?

9 A. Well, I couldn't tell. That's why I didn't get  
10 any pictures. I couldn't get close enough to it but it  
11 looked like it still had remnants of feathers. There was a  
12 pile of chickens there earlier.

13 Q. Do you know if the chickens may have been eaten by  
14 buzzards, raccoons or coyotes; is that correct?

15 A. I'm just guessing that.

16 Q. Did you ever see buzzards, raccoons or coyotes  
17 actually eating these birds?

18 A. Yes.

19 Q. You did? These birds?

20 A. Not these birds, no. Other birds.

21 Q. Did you take photos of that?

22 A. No.

23 Q. So in conclusion, you went here three days in a  
24 row and identified a suspected pile of dead chickens and on  
25 the third day they were gone; is that correct?



STEVE STEELE

April 7, 2009

217

1 A. Right.

2 Q. Okay. Let's look at Frame No. 1437. What is that  
3 depicting?

4 A. That's a shed with we suspect the dead carcasses  
5 of chickens.

6 Q. And 1447 and 48, I believe, is kind of the same  
7 observation?

8 A. Yeah.

9 Q. And that the first observation was made on 12/29,  
10 the second one was made on 12/30; is that accurate?

11 A. As best I can recollect.

12 Q. And then I believe the next ones are 1451 and  
13 50 -- 51 through 53, 1451 through 1453; is that correct?

14 A. 51, 52 -- I don't --

15 Q. And I'm just going off your report; right?

16 A. 53, right.

17 Q. Is there a violation of law depicted in any of  
18 these photographs?

19 MS. WEAVER: Objection to form.

20 A. I don't know.

21 Q. (BY MR. MIRKES) Then -- okay. We can put that  
22 one aside for just a moment. I'm gonna hand you what I'm  
23 marking as Exhibit No. 27.

24 (Exhibit No. 27 was marked.)

25 On this date, you revisited the same farm

STEVE STEELE

April 7, 2009

218

1 with Stansill, Gary Stansill; is that correct?

2 A. Yes.

3 Q. This is on 1/12/2006?

4 A. Right.

5 Q. Which is 12 days after your last visit?

6 A. Right.

7 Q. Did you visit any times between then?

8 A. I don't think so.

9 Q. What do the notes say? That's not your  
10 handwriting?

11 A. No. That's Stan's notes saying there's no  
12 chickens observed anyplace.

13 Q. So at some point between 12/31 and 1/12, they are  
14 moved?

15 A. Yes.

16 Q. Let's go back to -- I'm sorry -- Exhibit 26. On  
17 -- if you'll look at Bates No. 5019, which is the 12/30  
18 investigation report.

19 A. Yes.

20 Q. You write here that you observed a small tractor  
21 driven into the complex.

22 A. Right.

23 Q. Driver greeted an Oriental male?

24 A. Yes.

25 Q. Is that somebody of Asian descent, Oriental male?

STEVE STEELE

April 7, 2009

219

1 A. Yes.

2 Q. Then on 12/31, you note that the same -- let's  
3 see, same track -- 1454, same tractor leaving complex  
4 westbound Highway 20?

5 A. Yes.

6 Q. Where you had earlier observed a poultry barn?

7 A. Yes.

8 Q. And when you say same tractor, that's the same  
9 tractor you saw the day before?

10 A. I believe it was, yes.

11 Q. And in fact, you took photographs of that tractor  
12 1454, 5 and 6. Is that the tractor?

13 A. Yes, sir.

14 Q. Your notes say, poultry waste was visible on  
15 implement and tires?

16 A. Yes.

17 Q. Can you identify that in those photos?

18 A. Right here.

19 Q. Well, I can see the photo, but I want you to  
20 identify --

21 A. Right here is a dirty material I associated with  
22 chicken litter and also on the tires, but it doesn't seem  
23 as good here as when I saw it in person.

24 Q. So what you saw, you just associated with poultry  
25 litter?

STEVE STEELE

April 7, 2009

220

1 A. Yes. I saw that tractor inside a poultry barn.

2 Q. So you assume that because it was in a poultry  
3 barn that it must have poultry litter on it?

4 A. Not must, but I thought it did.

5 Q. Enough to at least write it down?

6 A. I wrote it down in my observations.

7 Q. How did you know it was poultry waste on the  
8 tractor?

9 A. That's my assumption.

10 Q. Did any of the waste come off the tractor --

11 A. Not that --

12 Q. -- when it was driving down the highway?

13 A. Not that I could see.

14 Q. So you didn't collect any samples of it?

15 A. No. I was only behind him maybe a hundred yards  
16 and he took a left turn and went south and I drove back to  
17 my secondary residence.

18 Q. Is it possible that it is just mud on those tires?

19 MS. WEAVER: Object to form.

20 A. Yeah, possibly it could be.

21 Q. (BY MR. MIRKES) Of the 24 photos that I counted  
22 that you took of this location over three days, I only saw  
23 two photos that show possible access to and from this  
24 poultry barn. And I've identified those as 1438 and 1445.

25 A. Right.

STEVE STEELE

April 7, 2009

221

1 Q. Are those the two access points to this operation?

2 A. There's just two access points. This is the one  
3 to the west, I'm guessing west.

4 Q. Will you identify for the record which one you're  
5 looking at?

6 A. 1438 is the main entrance --

7 Q. Okay. You can go head put that down.

8 A. -- where the -- there was a residence there to the  
9 left of that brown pickup truck.

10 Q. Uh-huh.

11 A. And then these barns are -- they go more to the  
12 right and then there's a public road that goes behind them.  
13 Not behind all of them, but the one at the end of that  
14 silo.

15 Q. Is that the -- is that where the tractor came out  
16 of?

17 A. The tractor came out of that building right there  
18 on 1438.

19 Q. Is that a paved access area from the public road  
20 to the --

21 A. No. It's gravel from up there down to the road.

22 Q. So that those tires could have picked up anything  
23 between there and the road?

24 MS. WEAVER: Object to form.

25 A. Yes.

STEVE STEELE

April 7, 2009

222

1 Q. (BY MR. MIRKES) Do you know what Watershed this  
2 farm is located in?

3 A. I believe it's in the Euchie Spavinaw.

4 Q. Any reason why you spent so much time  
5 investigating a farm that was in the Euchie Spavinaw  
6 Watershed?

7 A. I thought it was interesting to see that pile of  
8 dead chickens.

9 Q. Were you tasked to investigate poultry houses  
10 outside of the Illinois River Watershed?

11 A. I wasn't -- I was not tasked to do it, but nor was  
12 I denied access to do those things.

13 Q. Did you charge the State for that investigation?

14 A. I charged Lithochimiea for that and turned in  
15 these reports and photographs and to them.

16 Q. Is that relevant to this lawsuit?

17 MS. WEAVER: Object to form.

18 A. I don't know.

19 Q. (BY MR. MIRKES) I'm getting all mixed up here.

20 Do you still drive by that poultry operation,  
21 you said that's near your second home?

22 A. No, I haven't been by there probably in over a  
23 year and I've -- that poultry farm no longer is in  
24 existence.

25 Q. It's been razed?

STEVE STEELE

April 7, 2009

223

1 A. No, it's not inactive. It's not active.

2 (Exhibit No. 28 was marked.)

3 Q. Okay. We are -- I'm gonna hand you what's been  
4 marked as Exhibit No. 28. If you'll take a moment and  
5 review that.

6 MS. WEAVER: Thanks.

7 Q. (BY MR. MIRKES) Yes.

8 A. Yes.

9 Q. This is an investigation report dated 4/19/2006;  
10 is that correct?

11 A. Yes.

12 Q. And you and Gary Stansill conducted this  
13 investigation?

14 A. We took these photographs and made these  
15 observations.

16 Q. But this is his handwriting?

17 A. Yes.

18 Q. The description, second sentence of the notes say,  
19 litter on ground next to south barn. Litter pile had  
20 feathers in it and appears recently piled.

21 Do you see that?

22 A. Yes, sir.

23 Q. Is that's what's reflected in Photographs 5297,  
24 5298 and 5299?

25 A. Yes, sir, I believe so.

STEVE STEELE

April 7, 2009

224

1 Q. How do you know that's a pile of litter?

2 A. That's what we assume -- that's what we think it  
3 is. In our opinion, that was chicken litter.

4 Q. Is that a violation of law?

5 A. No, not that I know of.

6 Q. All right. It's referenced here that litter pile  
7 had feathers in it and appears recently piled.

8 A. Yes.

9 Q. What time of day did you make these observations?

10 A. It was 8:24 in the morning.

11 Q. How long did you stick around and watch that pile  
12 of litter?

13 A. Not very long.

14 Q. Can you quantify that?

15 A. Probably less than five minutes.

16 Q. Did you come back later in that same day and check  
17 the pile of that litter?

18 A. Not that day.

19 Q. Why not?

20 A. Just our duties and travels where we went did not  
21 give us the opportunity to come back by that place.

22 (Exhibit No. 29 was marked.)

23 Q. I'm gonna hand you now what's been marked as  
24 Exhibit No. 29.

25 MS. WEAVER: Thanks.



STEVE STEELE

April 7, 2009

225

1 Q. (BY MR. MIRKES) If you'll take a look at that for  
2 me.

3 A. Okay.

4 Q. And this -- this is an investigation report and  
5 associated photographs. The observers are you and  
6 Mr. Stansill?

7 A. Uh-huh.

8 Q. Investigation was conducted on April 26th, 2006;  
9 is that correct?

10 A. Yes, sir.

11 Q. This is an investigation of the same farm that we  
12 just discussed, the Virgil Tyler Farm; is that accurate?

13 A. Yes, sir.

14 Q. The description says, last week observed the  
15 litter pile outside not sheltered. Today pile is gone but  
16 doors remain open.

17 Is that accurate?

18 A. Yes, sir.

19 Q. So this was one week later you visited the farm  
20 and the pile has apparently been moved?

21 A. Yes, sir.

22 Q. Did you -- did you visit this area any time  
23 between the 19th and the 26th of that -- that year?

24 A. No, sir.

25 Q. Why not?

STEVE STEELE

April 7, 2009

226

1           A. I don't know what days we worked in between, if  
2           any, but we did come back by the next -- next week to see  
3           what had happened and it had been removed.

4           Q. So for all you know, that litter was removed six  
5           minutes after you first identified it because you left five  
6           minutes?

7           A. Or five-and-a-half minutes. That's right.

8           Q. Five minutes and one second. I -- I didn't make  
9           copies of them, but I did in reviewing the documents note  
10          that you visited there with Mr. Stansill the same farm  
11          again on May 3rd and then again on June 29th. And then in  
12          reviewing all of the Peterson Farms that you visited, I  
13          didn't find any that you had visited that many times in  
14          such a concentrated time frame.

15          A. Okay. And that's just by coincidence that we  
16          would drive by that farm. That farm is south of Kansas,  
17          Oklahoma and our standard route that we went, we would go  
18          south past that farm every time we went out. And we would  
19          go to Chue Road then go back east and that farm was right  
20          there.

21          Q. Did you ever notice anything unlawful happening at  
22          that farm in all the times that you've drove by it?

23          A. No.

24          Q. How many times would you estimate you drove by  
25          that farm?

STEVE STEELE

April 7, 2009

227

1 A. In my life?

2 Q. Well, certainly during this investigation.

3 A. In those four years, I've probably been by that  
4 place 25 times.

5 Q. A lot of times. Okay. I'm gonna hand you what  
6 has been marked as Exhibit -- woops. I put the wrong --  
7 try that again.

8 I'll hand you what I've marked as Exhibit 30.

9 A. Thanks.

10 (Exhibit No. 30 was marked.)

11 Q. Got a couple industries there. And I will  
12 represent to you that this is the complete file from --  
13 that was produced by the Oklahoma Department of Agriculture  
14 Food and Forestry. We had referred to that as ODAFF. Are  
15 you familiar with that?

16 A. No.

17 Q. You've never heard of ODAFF?

18 A. No.

19 Q. You know the Oklahoma Department of Agriculture?

20 A. Yes.

21 Q. Okay. And -- so this was the file that was  
22 produced by them. And I will first direct your attention  
23 to the back three pages. And in reviewing this, it appears  
24 as though they keep their files in kind of reverse  
25 chronological order, whatever comes in latest goes on top.

STEVE STEELE

April 7, 2009

228

1 Do you remember conducting an investigation  
2 into the Watershed approximately one year ago?

3 A. Yes.

4 Q. Just out of curiosity, are you following this case  
5 through the press and otherwise?

6 A. No.

7 Q. Do you have any idea what was going on in this  
8 case last spring?

9 A. No.

10 Q. Who directed you to continue your investigative  
11 work last April?

12 A. On this day, the 11th, we went two days, the 11th  
13 and 12th or the 10th and 11th. I don't know which of the  
14 two. But this was under the direction of Lou Bullock and  
15 the handwriting --

16 Q. Well, I will represent to you that I've reviewed a  
17 lot of documents in this case --

18 A. Yeah.

19 Q. -- and all the handwriting that isn't -- I don't  
20 want to offend anybody, but good, legible handwriting, I  
21 believe to be the handwriting of a gentleman by the name of  
22 Dan Parrish who works for the Oklahoma Department of  
23 Agriculture.

24 A. Okay.

25 Q. So these are his notes.

STEVE STEELE

April 7, 2009

229

1 A. Well, I mean, this is my handwriting here.

2 Q. Right.

3 A. This handwriting here is by somebody else.

4 Q. That's correct.

5 A. Okay.

6 Q. So you were telling me about Lou Bullock.

7 A. Yes. Lou Bullock asked me to -- and we only took  
8 one team. It was Gary Stansill and I go out to the  
9 Watershed, see what we see. We see litter stacks. We see  
10 litter spread. You see a lot of big trucks from the  
11 service BMP. That's what they wanted to know.

12 Q. What made it different on this occasion that you  
13 were getting your directions directly from Lou Bullock  
14 instead of Dr. Fisher?

15 A. I've taken direction from Lou Bullock and Rick  
16 Garren, Bert Fisher, a little bit Larry Hight who works for  
17 Mr. Fisher. I answer to several masters.

18 Q. They instructed those -- specifically the  
19 attorneys previously instructed you to go into the  
20 Watershed and take pictures?

21 A. Yes.

22 Q. He didn't say -- okay. Who were you reporting to  
23 in the April 11th and 12th?

24 A. This went back to Bert Fisher and that's where all  
25 our stuff went and then it would be distributed from there.

STEVE STEELE

April 7, 2009

230

1 Q. Who did you submit your invoices to on this one?

2 A. Lithochimiea.

3 Q. Is this under the same contract that we discussed  
4 earlier?

5 A. I believe so.

6 Q. The one that Rick Garren holds the master copy of?

7 A. I believe.

8 Q. Why does Rick Garren have a copy of a master  
9 contract when it was with Lithochimiea?

10 A. That's between he and Fisher. Rick Garren  
11 technically is the person that hired me.

12 Q. So let's focus back on this exhibit, the last  
13 three pages. Are those -- those are your investigation  
14 results, other than the handwriting we've already  
15 identified; is that correct?

16 A. Right.

17 Q. And then if we will flip one page prior to that,  
18 it's Bates number ending in 4504. Do you see that?

19 A. Yes.

20 Q. It appears to be an e-mail from Dan -- Daniel  
21 Linington to Dan Parrish.

22 A. Yeah. I don't know either one of those people.

23 Q. You don't know who Dan Linington is?

24 A. No.

25 Q. Any reason why -- well, let's go through this. It

STEVE STEELE

April 7, 2009

231

1 says these reports were prepared today. There appears to  
2 be some reports and some photo frames attached.

3 Do you see that in the body of the e-mail,  
4 first line, Dan, these reports --

5 A. Yeah. This is dated April 14th and that's not the  
6 date that we were there.

7 Q. So that's inaccurate?

8 MS. WEAVER: Object to form.

9 A. I don't know. I don't know -- I don't know the  
10 author of this and I don't know what he meant to do.

11 Q. (BY MR. MIRKES) Okay. Let's flip to the page  
12 before that. It ends in Bates No. 4503.

13 A. Okay.

14 Q. See down there where it says complaint details,  
15 about three-quarters of the way down?

16 A. Yes.

17 Q. Will you read what that says?

18 A. Litter shed filled up to capacity of the facility.

19 Q. Let's flip back to your findings. Can you read  
20 the first line of your notes?

21 A. Litter shed full to capacity at the Peterson Monte  
22 Jones Farm.

23 Q. So it would appear as though they are using your  
24 report in this ODAFF complaint?

25 A. Right. I don't know -- I mean, I don't know how

STEVE STEELE

April 7, 2009

232

1 it came to be a complaint.

2 Q. Did you make the complaint?

3 A. No.

4 Q. Did you make any complaints in all of your  
5 investigations?

6 A. No, sir.

7 Q. Let's flip to Bates No. 4501. This was the  
8 findings by John Littlefield, who's the inspector for the  
9 Department of Ag?

10 A. Uh-huh.

11 Q. It says Mr. Jones and I drove to the litter  
12 storage shed. There was no more than 40 to 50 tons of  
13 litter, in parentheses, less than 25 percent full.

14 Do you see that?

15 A. Yes.

16 Q. How is it that your investigation concluded that  
17 the litter shed is full to capacity and the Oklahoma  
18 Department of Agriculture found it was only 25 percent  
19 full?

20 MS. WEAVER: Object to form.

21 A. I don't know. To me, I thought it was full to  
22 capacity.

23 Q. (BY MR. MIRKES) So there were a lot of  
24 observations that you made that you think were inaccurate?

25 MS. WEAVER: Object to form.



STEVE STEELE

April 7, 2009

233

1 A. No. This other gentleman and I were not there at  
2 the same time.

3 Q. (BY MR. MIRKES) Do you have any reason to believe  
4 that his observation was incorrect?

5 MS. WEAVER: Object to form.

6 A. I don't know. I don't know the man.

7 Q. (BY MR. MIRKES) Do you have any reason to know  
8 why your observations prior to April 2008 apparently were  
9 not reported to the attorney general's office, but after  
10 April 2008, at least in several instances, they were?

11 A. I don't have --

12 MS. WEAVER: Object to form.

13 A. No, I have no idea. I didn't report them to  
14 anybody.

15 Q. (BY MR. MIRKES) Except for Bert Fisher?

16 A. Bert Fisher or whoever sent me out on a project.

17 Q. Well, in that case, you said Lou Bullock sent you  
18 out.

19 A. Right. But this work went to the central  
20 repository with Bert Fisher.

21 Q. But Bert Fisher didn't tell you, hey, we're gonna  
22 report this to the Department of Ag?

23 A. No.

24 Q. I've got one more.

25 MR. MIRKES: We're on 31?

STEVE STEELE

April 7, 2009

234

1 THE REPORTER: Yes.

2 (Exhibit No. 31 was marked.)

3 Q. (BY MR. MIRKES) I'm gonna hand you what's been  
4 marked as Exhibit 31. And I'll represent to you that this  
5 again is another ODAFF file that's just very similar to  
6 what we just reviewed. And I'll also represent to you that  
7 your -- apparently your report is the fourth page from the  
8 back of this.

9 A. Yes.

10 Q. Is that the way you see it?

11 A. Right.

12 Q. And this is the John Jones farm?

13 A. Uh-huh.

14 Q. And the observation was made on April 11th of  
15 2008?

16 A. Right.

17 Q. And again, in this observation you note litter  
18 piled on northeast side of poultry barns, all doors were  
19 open and chickens were gone.

20 Is that accurate?

21 A. I believe so.

22 Q. Is that a violation of law?

23 MS. WEAVER: Object to form.

24 A. Is what a violation of law?

25 Q. (BY MR. MIRKES) What you note here, litter piled

STEVE STEELE

April 7, 2009

235

1 on northeast side of barn.

2 A. No, not that I know of.

3 Q. Do you have any idea why this too apparently was  
4 reported by Daniel Linington to Dan Parrish?

5 A. I don't know. I didn't do it.

6 Q. Did it kind of seem like when you were tasked with  
7 this job that the focus had changed in April 2008 to --

8 A. Oh, I knew it had to a degree, because we were  
9 just -- he just wanted one car to go out and make  
10 observations in the Watershed to see because we hadn't been  
11 out there in a year.

12 Q. When you say he, who are you talking about?

13 A. Lou Bullock.

14 Q. One car. Why one car?

15 A. Because that's all that they would authorize with  
16 myself and one other person to go out there. He didn't  
17 want to send four cars driving all over the Watershed.

18 Q. I can go through this entire list. I've marked  
19 down every investigation -- investigation report that I  
20 found in the produced documents where you visited a  
21 Peterson grower.

22 A. Okay.

23 Q. And I can ask you whether or not you saw a  
24 violation of law.

25 A. No.

STEVE STEELE

April 7, 2009

236

1 Q. So I will ask you, in all of the Peterson Farms  
2 that you investigated, did you ever see a violation of law  
3 on any of those farms?

4 MS. WEAVER: Object to form.

5 Go ahead.

6 A. Not that I know of.

7 MR. MIRKES: Those are all of my questions.  
8 I pass the witness.

9 Thank you, sir.

10 MR. WALKER: Short break?

11 THE WITNESS: Fine with me.

12 (Break was taken from 5:08 p.m. to 5:16 p.m.)

13 THE VIDEOGRAPHER: You're back.

14 EXAMINATION

15 BY MR. CHADICK:

16 Q. I met you, I think, earlier. My name is Buddy  
17 Chadick and I represent George's. George's is a small  
18 integrator poultry company in Arkansas.

19 During your background checks, did you do  
20 anything about Gene George?

21 A. No.

22 Q. Gary George?

23 A. No.

24 Q. Anyone in the Georges' family?

25 A. Not that I know of.

STEVE STEELE

April 7, 2009

237

1 (Exhibit No. 32 was marked.)

2 THE REPORTER: 32.

3 MR. CHADICK: You better do it because --

4 Q. I'd like to attach Exhibit 32 to the deposition.

5 These are various forms. And I kind of missed it

6 originally. What does a WP stand for?

7 A. Waypoint on all of them. On a GPS, if you click  
8 it on Point No. 1 is waypoint. So Waypoint 1 would be the  
9 first -- first place you go. Now, on this form,  
10 Lithochimiea gave us waypoints to go to. And this is  
11 Waypoint 2546 up there.

12 Q. That's because they had already -- they had  
13 already determined where they wanted --

14 A. Determined where to go.

15 Q. Okay. All right. On -- this will be Bates  
16 No. 2742. Do you see anything in that report that reflects  
17 inappropriate activity?

18 A. No, sir.

19 Q. Bates No. 3196, anything in that report that notes  
20 inappropriate activity?

21 A. No, sir.

22 Q. This is sort of just curiosity. But Bates  
23 No. 12690, can you tell me what the significance of this  
24 report is?

25 A. At -- if we saw dead chickens on the road that

STEVE STEELE

April 7, 2009

238

1 looked like they weren't free range chickens but chicken  
2 barn chickens, they said take a picture of them and get a  
3 waypoint. And they had -- one of the complaints one time I  
4 followed up on was from the Grove, Oklahoma dog pound, that  
5 they had to go pick up dead chickens in Grove. And trucks  
6 would go through there at night and the chickens were  
7 getting out of these cages and they were in town.

8 And -- so the problem was that other critters  
9 would try to eat these chickens and they'd get hit by cars,  
10 like possums or something and then some dog would go out  
11 and get hit by a car trying to eat the possum. So it was  
12 this ever going on chain in Grove that I got to go listen  
13 to. And -- so that's when we started taking pictures when  
14 we saw dead chickens that looked like they fell off trucks.

15 Q. Do you recall whether or not there was a complaint  
16 called in about this dead chicken or is this something you  
17 just drove up on?

18 A. We just drove up on.

19 Q. Okay. All right. That's fine. I just wondered.  
20 I thought that was rather interesting. Now, how can you  
21 tell the difference between -- an idea -- I was raised on a  
22 farm and we called our chickens yard birds.

23 A. Right.

24 Q. And you referred to them as range bird or range  
25 chicken?

STEVE STEELE

April 7, 2009

239

1 A. Right.

2 Q. How can you tell the difference in a range chicken  
3 and a poultry house raised chicken?

4 A. When I'm saying range chicken, it's a different  
5 color. All the poultry barn chickens I've seen are white.  
6 The ones out on my uncle's farm when I was a kid were any  
7 kind of color that he had.

8 Q. Brown, gray?

9 A. Yes.

10 Q. Okay. You testified earlier that you don't have  
11 expertise in agriculture, weren't raised on a farm and you  
12 don't have any expertise in environment except the Hazmat,  
13 I believe you called it --

14 A. Yes, sir.

15 Q. -- with the police. When -- we'll turn now to  
16 12713, Bates number. And it reads, George's Egg Plant,  
17 field south and east of the plant appears burned from over  
18 liquid application.

19 Am I reading that correctly?

20 A. Yes, sir.

21 Q. Now, you don't have an expert opinion based on  
22 that, do you?

23 A. No. I have an amateur opinion on that.

24 Q. Okay. And was that simply because of the color of  
25 the grass? What did you determine?

STEVE STEELE

April 7, 2009

240

1           A. The color of the grass and the pattern that it  
2           was. It wasn't just uniform. It was like it had been  
3           trailed behind something, kind of a serpentine looking  
4           thing.

5           Q. If, in fact, it were a field that had been  
6           fertilized, you don't know whether or not it was commercial  
7           fertilizer, chicken litter or what type of fertilizer it  
8           would be, would you?

9           A. No, sir.

10          Q. And just about the same thing on just next 12753,  
11          you referred to, it appeared to be burned in recent litter  
12          application. Tire tracks appeared to be burned.

13                       Was that based on the color of the grass?

14          A. Yes, sir.

15          Q. Okay. You don't know whether or not it's fescue,  
16          Bermuda grass, or what type grass it was, do you?

17          A. That's correct.

18                       MR. CHADICK: That's all I have.

19                       MS. WEAVER: I have to ask you a couple of  
20          questions.

21                       THE WITNESS: I thought you were on my side.

22                       MS. WEAVER: I am. I'm on my side, too.

23                                       EXAMINATION

24          BY MS. WEAVER:

25                  Q. Let me have you look at Exhibit No. 21. It's the



STEVE STEELE

April 7, 2009

241

1 one that looks like -- yeah.

2 A. Okay.

3 Q. And you were asked a number of questions by  
4 Counsel about some of the photographs of the land  
5 application that was going on in the pictures depicted in  
6 Exhibit 21. Do you remember that line of questioning?

7 A. Somewhat.

8 Q. Okay. You were asked if you had -- or these  
9 photographs appeared to show any improper activity or if  
10 you had observed any improper activity. You were asked  
11 that about a few different documents that referenced land  
12 application. Do you remember those particular type  
13 questions?

14 A. Yes.

15 Q. Okay. Any time that you observed land application  
16 of poultry waste, you had not seen any soil tests for the  
17 field that the application was being made to, had you?

18 A. No.

19 Q. And you had not seen any litter tests of the  
20 litter that was being applied, had you?

21 A. No.

22 Q. So you don't know whether or not the field was  
23 actually eligible to have litter applied to it at that  
24 time, do you?

25 A. No.

STEVE STEELE

April 7, 2009

242

1 Q. Okay. So you really don't know whether or not  
2 there was a violation of any law to any land application  
3 that you observed, do you?

4 MR. WALKER: Object to form.

5 MR. MIRKES: Object to form.

6 MS. WEAVER: And that's all I've got.

7 MR. WALKER: Did you get all those  
8 objections?

9 THE REPORTER: I got two. Was there three?

10 MS. WEAVER: Yeah, I was gonna say that would  
11 have brought everybody up.

12 MR. MIRKES: Yeah, I think even the video guy  
13 objected to that.

14 MS. WEAVER: Yeah.

15 MR. MIRKES: Do you have any follow-up?

16 MR. WALKER: I don't have any follow-up to  
17 that line of questioning. I'm through.

18 MR. MIRKES: I'm through, too.

19 MS. WEAVER: All right.

20 MR. WALKER: Off the record.

21 THE VIDEOGRAPHER: Off the record.

22 (Off the record for less than a minute.)

23 MS. WEAVER: Mr. Steele, you have the  
24 opportunity to read the transcript that has been taken down  
25 today and to review it for any mistakes in your testimony,

STEVE STEELE

April 7, 2009

243

1 if the court reporter has typed yes when you stated no or  
2 typed no when you stated yes and to read that and sign it.  
3 If -- you just need to state on the record whether you  
4 would like to read and sign or whether you'd like to waive,  
5 it's up to you.

6 THE WITNESS: I'd like to see it.

7 MS. WEAVER: Okay. We'll read and sign.

8 (End of proceedings at 5:26 p.m.)  
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STEVE STEELE

April 7, 2009

244

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CORRECTIONS AND SIGNATURE		
PAGE/LINE	CORRECTION	REASON FOR CHANGE

I, STEVE STEELE, have read the foregoing deposition and hereby affix my signature that same is true and correct except as noted herein.

\_\_\_\_\_  
STEVE STEELE  
CA# 05-CV-0329 GKF-PJC

STATE OF OKLAHOMA )  
Subscribed and sworn to before me by the said witness,  
STEVE STEELE, on this the \_\_\_\_ day of \_\_\_\_\_,  
2009.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF OKLAHOMA

My Commission Expires: \_\_\_\_\_

STEVE STEELE

April 7, 2009

245

1 STATE OF OKLAHOMA)

2 I, Lisa Smith, a Certified Shorthand Reporter in and  
3 for the State of Oklahoma, do hereby certify that, pursuant  
4 to the agreement hereinbefore set forth, there came before  
5 me on the 7th day of April, A.D., 2009, at 9:49 a.m., at  
6 the offices of Rhodes, Hieronymus, Jones, Tucker & Gable,  
7 PLLC, located at 100 West Fifth Street, Suite 400, in the  
8 City of Tulsa, State of Oklahoma, the following named  
9 person, to wit: STEVE STEELE, who was by me duly cautioned  
10 and sworn to testify the truth, the whole truth and nothing  
11 but the truth, of his knowledge touching and concerning the  
12 matters in controversy in this cause; and that he was  
13 thereupon carefully examined upon his oath, and his  
14 examination was reduced to writing under my supervision;  
15 that the deposition is a true record of the testimony given  
16 by the witness, same to be sworn to and subscribed by said  
17 witness before any Notary Public, pursuant to the agreement  
18 of the parties; and that the amount of time used by each  
19 party at the deposition is as follows:

20 Mr. Walker - 04 hours, 35 minutes,

21 Mr. Dolan - 00 hours, 00 minutes,

22 Ms. Hill - 00 hours, 00 minutes,

23 Mr. Chadick - 00 hours, 07 minutes,

24 Mr. Mirkes - 00 hours, 54 minutes,

25 Ms. Weaver - 00 hours, 03 minutes,

STEVE STEELE

April 7, 2009

246

1 Mr. Green - 00 hours, 00 minutes.

2 I further certify that I am neither attorney or  
3 counsel for, nor related to or employed by, any of the  
4 parties to the action in which this deposition is taken,  
5 and further that I am not a relative or employee of any  
6 attorney or counsel employed by the parties hereto, or  
7 financially interested in the action.

8 I further certify that, before completion of the  
9 deposition, the Deponent \_\_\_\_\_, and/or the  
10 Plaintiff/Defendant \_\_\_\_\_, did \_\_\_\_\_ did not \_\_\_\_\_ request  
11 to review the transcript.

12 In witness whereof, I have hereunto set my hand and  
13 affixed my seal this 20th day of April, A.D., 2009.



14 Lisa Smith

15 LISA SMITH, OK CSR 01778

Expiration Date: 12/31/2009

16 Esquire Deposition Solutions

Firm Registration No. 286

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